



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

DA 422 1657 539

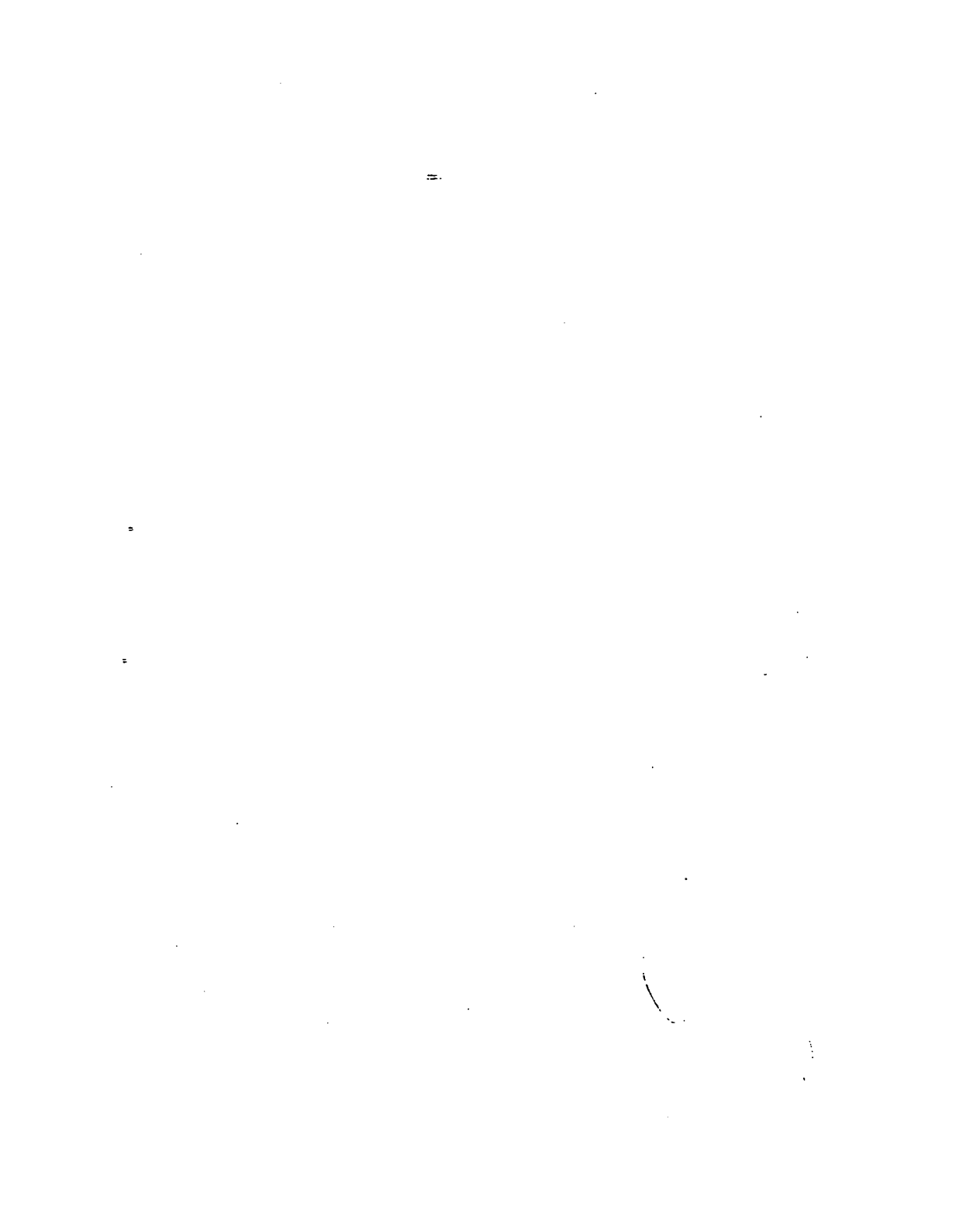
SEXBY

KILLING IS MURDER









L. Serby, Edw. and 7

J Killing is Murder:

OR, AN

ANSWER

To a Treasonous

PAMPHLET

Entituled,

Killing is no Murder.

Killing is no Murder

Ovid. Fast. lib. i.

*Rode Caper vitem; tamen hic cum stabis ad Aras,
In tua quod fundi cornua possis, eris.*

L O N D O N,

Printed for Joseph Moor, and are to be sold by
the several Booksellers in London and Westminster.

1 6 5 7

SPV

DA 422

1657

S39

Killing is Murder.



Quibus scribendi datur libertas, paucis facultas, (was the saying of Scaliger :) And therefore, when I first fell upon this Paper, I was wishing to my self, that so good a Subject, as the answering so dangerous an Error, had lighted upon some better Pen than mine; that the justness of the Cause, might not have suffered under the weakness of the Defender: But when I saw the wiser sort gazing one upon another, and the rest greedily swallowing it, either because they understood it not, or believed the others might; I thought it my duty to evince to the World, that every man was not of the Authors opinion, and that a general silence had not begotten a general consent. And this was the true cause of this present Writing; wherein if the World shall be pleased to believe me, I ask no more: If otherwise, I seek nothing but the emancipation of Truth; and therefore if it be an Error, it is one on the right hand, and may the better deserve pardon, if not imitation.

To say nothing of the Title, (which is no more than the Decalogue tythed, or one Commandment thrust clearly out of doors) I shall begin with the Author, whom we find bound up under the name of *William Allen*; but I believe he is not the first who hath fathered a child that is none of his own; and therefore I question whether it be not as hard to suspect him, as difficult to find him out? For (besides that by the thread it looks not as if it should be home-spun) there are many circumstances might induce me to think it may be Alien-born, if I could for the present think upon any English-man abroad, who (bating the Subject) were able to beget such another: But whoever he be, the Example is more then the Man; and therefore I thought good to discuss his Arguments, and bestow some ink upon the Tetter, that it spread no farther.

The next thing considerable are his Epistles; in the first where-
of the Gentleman is very merry, and gives his Highness an ap-
pellation, no good Subject will deny him: He calls him *the Father*
of his Country, (for so indeed he is) yet very dutifully,

— *ante di-m patris inquirat in annos:*

He would fain have him gone, that he might come by his inheri-
tance; and plays with the word Father, as *Absol:m* with the cre-
dulity of the people, not that he might mend any thing in the
Government, but strengthen the Conspiracie, for so the Text
calls it.

2 Sam. 15.
12.

In the second, to give the more credit to his mutinous perswa-
sions, he would fain be thought to have been a Soldier, and believes,
there is no way to be deemed the *Cato* of the Age, unless he dare
be *honest*, (as he calls it) which in plain English, is factious, and
rebellious:

— *Habeat jam Roma pudorem!*

Tertium è caelo cecidit Cato.—

Lastly, he implies as if he had deserved well of his Country;
and yet methinks he might have remembred, the same did *Manlius*
Capitolinus, of *Rome*; yet upon moving a sedition, and seeking to
get the people to his faction, he was, without any regard had to
his good desert, pitch'd headlong from that *Capitol*, which to his
former honor he had so valiantly defended. In a word, he en-
deavours to place a Religion in the Act; and would be thought
himself to be an Angel, if it be for nothing else but troubling the
waters.

Flor. l. 1.
c. 26.

But to descend to his Book, than which I have not met with a
thing more fallacioufly composed, or more craftily put together;
wherein, *Id sibi negotj credidit solum dari, populo ut placeret, &c.*
And therefore (like Manna) he would fain relish every mans taste,
and become all things to all men, that he may gain some. For
whilst he argues confidently, *tanquam ex concessis*, and as *Tully*
saith of such another, *Nihil tam verens, quam ne dubitare aliquâ*
de re videatur; he insinuates into every faction, and interest, and
secretly steals into the easie People, whose ears are more open to
Rhetorique, then Logick, and sooner driven by fine words, than
led by perswasion: whence it comes to pass, that they are cheated
with the Gloss in stead of the Text, and gulled with the speciousness

of

of the bait, to swallow the hook; which they seldom discover, till they come to repent of, or disgorge, without the very entrails of some of them, where it hath taken fastest hold. But the best of it is, we have not many examples, that peeces of this nature have made any understanding man a Profelyte, and rarely met with a cordial reception in any, except a few loose, idle fellows, who like the *Athenians* in the *Acts*, spend their time in nothing else, Aa. 17. 2 but either to tell, or hear some new thing: For, as to the persons for whose sake our Author saith he hath displeased so many to please so few, (*the honest and the wise*) it cannot be thought but that the former will be so far from being pleased with it, that they will look upon it (as he tells us he wrote it) *with indignation*; as well knowing, that it is not enough for a man to be *Integer vita*, but he must be also *sceleris purus*, which I think no man can be said to be, who hath had his hand in blood, especially in the blood of his Prince, whom, by the Laws of Nature, and Nations, he is obliged to defend. And as for the wise man, though he may have so little honour, and less honesty to approve of such an action when done, yet he hath too much wit to imbarque in the design, as counting it as difficult to be concealed, as dangerous to be effected: And therefore (as vapours go no higher then the middle Region, and from thence fall down again upon the earth) the greatest influence it is like to have, must be upon (the *το πᾶσι*) the multitude, and these he useth as the Monkey did the Cats paw, to scrape the nuts out of the fire; and having put them in the head that they are the Geese that must preserve the Capitol, he perswades them to put their shoulders to that, which himself knows to be too hot to touch with his finger. In a word, he wants neither fallacies to amuse, nor malice to exasperate them, so that I may as truly say of this Pamphlet what *Hotoman* as unjustly said of *Littleton*, *Stultitia videatur in isto libro cum malitia, & calumniandi studio distorta* De verbi
scandalum
lit. scdm

In the next place he falls upon the business of *Sindercomb*, and would fain know, whether (*if there had been any such Plot*) it deserves the Epithites Mr. Speaker gave it, *viz.* of Bloody, Wicked, &c. concerning which, because I shall have an occasion to speak to it in its proper place, I shall onely say thus much to it at present; That it will sound little otherwise to any person of honesty, or honour, it being a course against all Honour, Religion,

gion, Society, Humanity, Laws of Nations, and the very Rules of Policy; Lastly, An act so barbarous, and ferine, that were it not that it would be a very reproach to the age, that the matter should be once disputed, or called in question, it could never be defended: And so I leave it to that censure which St. James

3-15. giveth of the wisdom of this world, *Which (saith he) descendeth not from above, but is earthly, sensual, and devilish.*

But to draw into a lesser circle (or as himself saith) to *speake sense more seriously*; his Questions are Three. 1. *Whether his Highness be a Tyrant or not?* (which he is pleased to say *will be none*) 2. *If he be, Whether it be lawfull to kill him?* 3. *If it be lawfull, Whether it is like to prove more profitable, or noxious to the Commonwealth?* In the handling of all which, that I may not seem to balk any thing by silence, or cloud any thing by words; I shall take them in order as he hath laid them; And begin with the first, which, if it be no Question (as he would have it) it needs no Answer: But because he makes use of that seeming negation onely to affirm the stronger, I shall consider his division of a Tyrant, *viz. sine Titulo, & Exercitio*; wherein, I hope I shall evince to the World, That His Highness is within neither.

As to the first; he saith, *That all Power over a Commonwealth, is derived either from the appointment of God, or the consent of the People themselves*: Which I grant him, with this restriction, That where the power of God doth not interpose (as it will be hard for him to prove that it hath done at any time, since the Commonwealth of the Jews) the custom of the Country is the rule to go by; and therefore the thing that we are to enquire into will be, whether his Highness hath a sufficient power committed to him according to the Laws and Constitutions of this Nation? which, if he have, it will not matter what customs the Hebrews had amongst them, but sufficiently prove our purpose, that he is no Tyrant in Title. And therefore for answer to his Examples of *Sauls* and *Dauids* being chosen by God, and confirmed by the people; we must know, that the Jews had an immediate revelation of the will of God by his Prophets, which in those times, we shall rarely find, that they gain-said, (especially in things of this nature;) and consequently, the meeting of the people at *Mizpeh*, and *Hebron* to confirm them (as he calls it) was but an act of

of compliance, to that will of God, which he had pre-declared by his Prophet *Samuel*; for if it should be otherwise, the election from God would have signified little, unless it should have pleased the people to have confirmed them afterwards. Besides, let him make of it what he can; I do not conceive that the Law given to the Hebrews (as it is properly Law) is obliging to other Nations; for no Law binds any to whom it was not given, and so saith *Grotius*: And that it was given to them, the Law it self *Grat. l. 1. c. 8. de jure belli, &c. Deut. 5. 1.* speaks as much, *Hear O Israel, &c.* And to them solely, will appear not onely by the second verse of the same Chapter, *The Lord our God made a Covenant with us, &c.* but by *Deut. 4. 7.* and *Psal. 147. 20.* where *Moses* and the *Psalmist*, tells them they were the onely people in the world, to whom God peculiarly gave his Laws. And that the Jews themselves did take it so, will be manifest in this, that the *Profelytus Porta*, of whom we read in the Fourth Commandment, was not circumcised, neither did he conform himself to the Mosaical Rites; onely he was tied to the observance of those Commandments, which were given (say they) to *Adam* and *Noah*, viz, to abstain from Idols, and Blood, &c. and yet they were such persons as lived in the heart of their Commonwealth amongst them; of this sort were *Cornelius*, *Act. 10.* the *Worshipping Greek*, *Act. 17.* and those of whom we read *Act. 2. 5.* *There were dwelling at Jerusalem Jewes, (Ἰουδαῖοι) men that feared God of every Nation under Heaven.* And this will appear farther by *St. Paul*, who saith, *That he that is circumcised is a debtor to the whole Law*; to which, if any one who was a stranger, did submit himself, he not onely thereby gained the right of a Native, but was in opposition to the former, called *Profelytus Fæderis, sive Justitiae*. in regard he was obliged to the whole Mosaical Pedagogy, the other not. Again, we are bound by no part of the Hebrew Law, as it is properly Law; because all obligation, except by the Law of Nature, comes from the will of the Law-giver: But that it was the will of God that others besides the *Israelites* should be holden by that Law, we have not the least intimation. From all which, I argue thus, that if the Laws of the Jews are not obliging to any Nation but their own, as I have shewn before; his examples which are grounded upon those constitutions must necessarily be the same, and therefore no more to be observed, or followed by our State, then is agreeable to our own Customs,

1. 100

2. 100

3. 100

4. 100

5. 100

100

100

cannot be imagined that God should regard Sparrows, and take an account of the hairs of our head, and yet stand as unconcerned in the revolution of Scepters; and therefore we cannot lay that to his charge which *Phidias* did to his *Jupiter*, that he had loosed his Eagles from his Charriot, and having forsaken his Throne, was gotten down into the Air, a making Centaures (as Boys, diagrams in paper) and had left the world to be governed by Fortune: No, if Scripture were silent, the Poet will teach us otherwise,

— *Neque enim hac sine numine Divum*

Exeriant — —

And therefore let it be enough for every honest man, to keep that station wherein God hath placed him, and as he was not born to a Crown himself, so to let it rest where he finds it; the disposal of Kingdoms belongeth to God, it is his own prerogative to put down one, and set up another, and therefore it little becommeth a Subject to dispute the title of his Prince, and with his peremptory ballance pronounce a *Mene Tekel* on his Sovereign. Pal 75.

2. He hath a sufficient confirmation from the people, and consequently, the Laws and Constitutions of this Realm, look upon him as a lawful, and a rightful Prince. And here, give me leave to take my rise to my ensuing discourse, from the state of affairs, in the year 1653. at what time there was no visible face of Government, all things being subjected to arbitrariness, and the whole power over the three Nations, in the hands of his now Highness, then General, boundlessly, and unlimited: and which might add to the danger, a person, not a little beloved by his Army, by whose assistance, it had been no hard matter, to have made any thing lawful, which he had thought convenient: Whereupon, divers Gentlemen, and those too not meanly considerable, made their applications to his Highness, that in regard of the great distempers that then lay upon the Nations, and the greater incertainties that were like to follow (in as much as there being no declared form of Government, men were generally at a stand, either how to act, or what to obey) he would be pleased to accept of the Government, it being thought the onely means to beget a composure, and stop that torrent of blood and confusion, which in all probability was breaking in upon us; adding withal, that they came not to give him an encrease of power, but intreat him rather, that he would abridge himself of some of that, of which (they

humbly conceived) he had too much already : In a word, that he would be pleased, to circumscribe himself within such bounds and limits, as they had prepared for him, in that Model, or Instrument of Government, which they desired he would be bound by oath to observe, till such time as it should be further ordered by Parliament; whereupon, weighing no doubt, *Minimum decet libere. cui* *n. Tread.* *nimum licet*, and considering, how much better it might be, to become the love, then fear of the people, he accepted of the place, and Title of Lord Protector, &c. and was in the presence of the Lords Commissioners of the Great Seal, the Judges, Lord Mayor, and Aldermen of *London*, Souldiery, and other persons of quality, publicly sworn to the said Government in *Westminster-Hall*, before the face of the people : And so having brought his Highness into his Chair, I shall leave him there, and consider, whether the people have given their consent and approbation to this Government of his Highness; wherein I think it will be an easie matter to prove the Affirmative. Witness to this purpose, first, The most considerable of the people, the Officers and Souldiers of *England, Scotland, and Ireland* (whom I call most considerable, in regard, the experience of all times hath made it evident, that such persons, have always carried no small stroke, in the disposal of the Chief Magistracy, especially, where it hath been Elective, and not Successive) and therefore I say, witness first, their consent, which is not onely clear enough at this day, by their submitting to him, but was further evident, at that time, by their Remonstrances and Subscriptions. Secondly, witness all the Judges of the Land, who conceiving there was a dissolution of Government, scrupled to act, till they had received new Commissions from his Highness, by vertue of which, they have since acted. Witness thirdly, That publick and magnificent Entertainment, of the City of *London*; those congratulatory Manifesto's of the City, and County of *York*; and divers other Cities and Burroughs; the general approbation of so many Grand-Juries, at their publick Assizes, in the name of themselves, and Countries; their returns of thanks to his Highness, that he was be pleased to accept the Government; and solemn Protestations, of their defence of him, in the defence of it: Add to this, the humble Petition of divers Cities, and Towns incorporate; as *Salisbury, Colchester, Lynn Regis, Marleborough, Wickham, Woodstock, Swansy*, and others, whereby they desired

desired, his Highness would be pleased to renew their Charters, which hath been accordingly done, and with no small acknowledgments, received. Witness Fourthly, All Sheriffs, and Commissioners of the Peace; and generally, all the people of *England, Scotland, and Ireland*; their submissions to his Highness Writs, for calling two Parliaments, since his Highness accepting of the Government; their elections by vertue of those Writs, and Returns of them; and lastly, the actual sitting of their several members (the Representatives of the people) and making Laws together with his Highness, both which, could not (so much as in common speech) be called Parliaments, no otherwise, then as they owned that power, which gave them being; and nothing of which could have been done by his Highness, if the supremacy had not bin in him; for, *Quicquid efficit tale, est magis tale*: In all which instances; I have purposely avoided every thing that might, so much as look, like a passive, or implicate submission; (it being one of the objections which our Author pretends to answer, but how lamely, and fallaciously he hath done it, I submit it to sober men) and have onely pitched upon such, as are in themselves expresse, and actual; and such, as not amount to, but are, explicit acts of faith and obedience: So that I may not improperly apply that of *Martial*, to our present purpose, *Vox diversa sonat, popularum est vox tam una*. Fifthly, To say nothing of the recognition of the present Government under his Highness, made in the Parliament last before this; There is an act of this present Parliament (however the Gentleman is pleased to call a free Election, a *mutuo*) disanuluing the Title, and Line of the late King, as also one other, wherein they declare that the prosperity and safety of these Nations, dependeth (under God) upon the security and preservation of his Highness person: I might add, the offer of the Crown, and Regal Dignities, made him in this Parliament, but I use it onely as an inference, to shew, that they are so far from disowning what he hath already, that they would have given him more: As also that other of this Parliament, whereby they desire, that his Highness will be pleased, by, and under the name of Lord Protector of the Commonwealth of *England, Scotland and Ireland*, and the Dominions, &c. to hold and exercise the Office of Chief Magistrate of these Nations, &c. and his Highness's publike Instalment in pursuance of it; but because it happened since this Pamphlet came out, I shall onely use it as an argument, that requires our

obedience for the time to come: So then, admitting the highest power was once in the People, they have by these Acts divelted themselves of that power, without any part of that right retained or reserved to themselves; Neither was this without the height of reason, if we consider the many changes and circumrotations we have suffered within these ten last years; wherein, one party hath been prevalent to day, another to morrow, a third the next, whilst the poor State lay weltring in her blood, and exposed to the ignorant guidance of any fourth, who were able to beat the other three; Nothing considering how they rent their Common mother, and that whoever had the better of it, the Commonwealth must needs be a loser: I say therefore it was providently done of the People, to dispose of that power out of their own hands, which, all the while they held it, they seldom used but to their own hurt: And that such things have been done in like manner by others, we have the examples of the *Falisci*, the *Samnites*, and the *Campanians* to the People of *Rome*: The subjection of the latter of which we have in this form. *Populum*

T. Liv. l. 5. Campanum, urbem que Capua, agris, delubra dictum, divina, humanaque omnia, in vestram P. C. diticium, dedimus: The People of *Campania* the City *Capua*, our Lands, the Temples of our Gods, all divine and humane things, we yield into your hands, O ye Conscript Fathers. Besides, it is best agreeable to the humor of this Nation, who naturally hate, either to be governed by more then one, or to see a priority that way in their Fellow-

Jus. 28. Subjects; and therefore, like the *Cappadocians*, refuse that liberty which was offered them, affirming they cannot live, but under the government of a Single person; holding it not only convenient, but most rational, according to *Tacitus*, *unum Imperii corpus,*

Annal. 1, unius anima regendum; and in another place, *Pacis interesse, omnem potestatem ad unum conferri.* Lastly, he is in possession, which is as good a Title as any of the Roman Emperors, or most of our own

Kings had to their Empire; And *Grosius* tells us, A private man ought by no means to take upon himself to judge, but follow the Possession: So did Christ, commanding Tribute to be paid to *Cesar*, because the money bare his Image, *q. d.* because he was in possession of the Empire: And the same advice did *Pompey* (whilst he was even then flying from the Rout at *Pharsalia*) give to the City of *Mytilene*, That they should fear nothing, but submit themselves to obey *Cesar* the Conqueror. So

then,

then, whether we look upon the consent of the People, or his being in possession of the Supreme Magistracie, (which, saith *Cambden*, takes away all defects whatever, and was so held by all the Judges in the Exchequer-Chamber, in the case of *Hen. 7.*) he hath Title enough to require our obedience, and submission to him. In who
Rex 11.
H. 7. 4

Besides, the Laws of this Land require it, albeit he had no other Title then the bare Possession: For, where-ever the Law speaks of *Nostre Seigneur le Roy*, it is to be understood of a King *de facto*, and not *de jure*, q. 4. of a King regnant, and not of a King in name only. And so we find it taken, 1. & 2. of *Philip* and *Mary*, where an Act was made, That the compassing the death of King *Philip*, during his marriage with the Queen, should be Treason; as well knowing, that he was but a King in name only, and not in office, and so not within 25 *E. 3. 2.* So the Statute of *H. 7.* (for indemnifying such as should take part with the King) hath been expounded, to be understood of a King in possession; For if there be a King regnant in possession, although he be *Rex de facto*, and not *de jure*, yet he is *Señr le Roy* within the purview of this Statute. And that we may see this was no new thing, taken up to serve the present occasion, we may easily find that it had been so adjudged before these Statutes: For it was said that a man might be arraigned in the time of *Ed. 4.* for Treason done to *H. 6.* in compassing his death: And further, that if *E. 4.* had granted a Pardon in the time of *H. 6.* it had been void, for that it cannot be granted by any but a King *en fait*. But if any man shall object, that what I have offered speaks only of a King, which his Highness is not, and therefore being penal shall be taken strictly to intend nothing else; be pleased to turn to the end of the second Question, where I have determined to handle this matter, as in its most proper place. And therefore to proceed, He that shall but seriously examine how often the line of succession to this Crown hath been disturbed, since the Norman Conquest, will find that a great part of the Kings of this Land had no better Title then Possession, or an Act of Parliament, and yet have thought their Rights sacred and inviolable. To say nothing of *W. Rufus*, *Hen. 1.* *K. Stephen*, *K. John*, *Edw. 3.* *Hen. 4. 5. & 6.* *Rich. 3.* I shall begin with *Hen. 7.* (whose first Ancestor *John de Beaufort*, was legitimated by Act of Parliament, with this Clause, (*Except à dignitate Regali;*) who knowing not where well to find his Title, unless it were in his

Scabbar,

Scabbard, had an Act penned under covert and indifferent words, That the Inheritance of the Crown should rest, remain, and abide in the King; &c. Which words (saith the Lord Bacon) might equally be applied; That the Crown should continue to him; but whether as having former right to it, (which was doubtfull) or having it then in fact and possession, (which no man denied) was left fair to interpretation either way; and yet this was thought Title good enough, for the Nation to yield him obedience: For it is to be noted, that at this time, nor in some moneths after the dissolution of that Parliament, he had not entered married with *Elizabeth* the eldest daughter of *Edw. 4.* and consequently, had no more right of his own, then what a long sword and a better Parliament had given him. In like manner *Q. Mary* thought herself legitimate enough when the Parliament had declared her so, (and hence possibly it might be, that that Parliament took its name of *Parliamentum propitium*) And Queen *Elizabeth* and King *James* their Titles strong enough by their several Recognitions: For, that they suspected it before, will easily appear in this, that had there not been some apparent flaw in them, they knew too much, to have submitted them to be sodered by a Parliament. And therefore to take all this together, if the People of *England, Scotland* and *Ireland* have given his Highness their actual consent and submission; if the Parliament of the three Nations have disannulled the old Title and Line; if they have owned his Highness by the name of the *Lord Protector, &c.* if they have more then once received Laws at his hands, which is a most inseparable mark of Supremacie — *volentes. Per populos dat jura.* — saith *Virgil*; If the Law regards no other King, but him in possession; And lastly, if many of our own Kings have thought it, and an Act of Parliament, a sufficient Title to this Crown; I may safely conclude this Part, That whoever hath so much to shew for the Supremacie, hath a good Title to it; And that his Highness hath as much, I hope I have by this time satisfied any unbiassed judgment, and being so, his Title is such,

— *quo possit dicere, jure meum est.*

But to proceed; The next thing I meet with is a ripping up of many things, which, though possibly they may not be so well for the present as could be wished, yet may be justified to be no other then what the present necessity of State requires, and what others

(both

(both Princes and Commonwealths) have done in like cases; In setting down which, methinks the Gentlemans ink is a little too thick: For, besides that he hath thrown in a great deal of dross to help out weight, he thinks it will best suit with the Genius of the people, if what he wants in Argument, be made up in Railing. But because all this is of the same batch with his Character of a Tyrant, I conceive it may receive a more proper Answer in his second Division of a Tyrant, *viz. Exercitia.*

And herein I shall begin, with his Character; and because most things in it are packt together meerly to amuse the people, and few or none of them do *competere solo q d.* proper only to a Tyrant, but may be applicable in like manner to almost all Princes, especially such as are wise, or would be safe; I shall take such of them as are of most weight, in pieces, and prove them to be no other, then what have been done formerly, and may be made use of again upon the like emergencies. And by his favor, his first is not so properly a Character: For because particular men that have been Generals of Armies, have misused that power into a Tyrannie, it will not follow that every General must do the same, or that there may not be a Tyrant as well without an Army, as with it. For Tyrannie, which is nothing more then a depravation of Monarchy, may be as well exercised in times of peace by distorting the Laws, as cutting them in sunder by the power of a sword. But to pass this, I believe it will hardly be denied, but that most Kings who have laid the foundation of any new Government, have been the same, *q. d.* Generals of Armies. What was *Romulus*, *Theseus*, *Cesar* and others? whose memories are so fresh in History, and whose names look so big in the rolls of Fame. To avoid many instances, I shall pitch upon that of *Cesar*, concerning whose war with *Pompy*, and taking upon him the Empire, though *Machiavel* says, that they that wrote his History, were bribed by his Fortune, yet if we shall believe *Florus* that wrote neer One hundred and eighty years after his death, (and so long after Truth is freely spoken, especially under *Trajan*, in whose days (saith *Tacitus*) a man might have thought what he would, and spoke what he thought) he will tell us, that after he had beaten *Pompy* at *Pharsalia*, and his sons at *Munda*, the people of *Rome* were so far from thinking him a Tyrant, that *non ingratis civibus omnes honores in unum Principem congesti: circa temple imagines, &c.* His

Country

That is
Highness
is not Ty-
ranny in
exercitia,

*Disputa-
tio.*

Tacitus

Florus

Country not ingrateful, heaped all sorts of honor upon that one Prince: He had his Images about the Temples, a Crown deck'd with rayes in the Theatre, a Chair of State in the Senate, a Pinacle upon his house, a Moneth in the Zodiac; and besides all these, himself proclaimed, *Pater patria, Consul in decennium, Dictator in perpetuum, Sacrosanctus, & Imperator*: All which Titles, together with the name of *Augustus*, were afterward conferred upon *Octavius Caesar*, after he had broken the Triumvirate. All which I was the more willing to instance in, because I have not met with any thing come neerer our own story: Here is a General invested with the Civil power, and so far from being thought a Tyrant, or his taking the Government upon him an Usurpation, that the People (as I have shewn) not only laded him with honors, but loved his virtues, rather then feared his power: But I am afraid I have been too long.

Rom. Ant.
fig. 171.

His next mark of a Tyrant is, *That he proceeds rather by fraud, then force: (a luckie Craft, as he calls it)* pray who is more full of it then *Ulysses*, in *Homer*? or thinks it more just, then *Agesslaus*, in *Plutarch*? or calls it more profitable, then *Xenophon*, in his life of *Cyrus*? *Grotius* calls it an honest craft, if it be devised against an Enemy; and saith, It matters not, whether a man get out of the power of his Enemy, by force or fraud: and to that purpose quotes *St. Chrysostom*, who saith, Those Generals are most praise-worthy, who have gotten the Victory by Stratagem: And *St. Augustine*, who declares, that when a just War is undertaken, it is no difference in point of right, whether one fight with open force, or lye in wait. But because some may object to me, that the Father saith it must be a just War: if you will take what is a just War (out of *Livy*) it is thus; *Iustum est bellum, quibus necessari-um, & pia arma, quibus nisi in armis spes est*. That War is just, that a man cannot avoid, and those Arms pious, where a man hath no other hope but in them. And therefore let no man think, he is obliged to fight with his Enemy in mood and figure, or that it is a breach of honor, to strike him anywhere but upon his Buckler. No ——— *Dolus an virum quis in hoste requirat?* was an old saying; and without a large command of both, I think a Prince may keep his Dominions so long, till another who hath more wit then himself, take them from him: For it will be an easie matter to satisfie the people, with whom, as saith *Seneca* ———

De jure
belli, &c. l.
3. c. 5.

Her. Furus

Quar-
187

turbelli excitus non causa, and the depth of their enquiry, is not how, but, who, had the better of it. *Hen.* (the first Ancestor of the late Line, for whose cause I beleeeve this Pamphlet was principally intended) will tell us how lawful it is; if not, a credible Author will inform us, he made a higher use of it, when to give the more credit to his Espials abroad, he made his Religion, a Pandar to his interest, and used to have them curfed at *Pauls* (by name) among the Bead-roll of the Kings Enemies. The use of which was, That as many conspiracies were thereby revealed, so the fame and suspicion of them, kept (no doubt) many from being attempted.

L. Baurt
Hist. of
H. 7. 112.

Then again, he saith, *A Tyrant never goeth without his Guard, nor his Highness without his Life guard*: Which, how usual it is for the meanest General, needs no example. But if he had given us all that *Aristotle* had said concerning it, he might have told us his difference, betwixt a King and a Tyrant, in that the first is guarded by his own Subjects, the other by Strangers: And which of these two his Highness resembles, I leave it to his very enemies, (nay the Author himself) to judge.

Arist. Polit.
L. 5. cap. 11

Again, (saith he) *They impoverish the people, that they may want the power, if they have the will to attempt anything against them*: Which, that it is inseparably incident to all new States, no understanding man can deny, when he shall consider, that the the People, who are always inclinable to change, in hopes of better, not meeting with what they expected (in regard of the Necessities that attend a new State) are still prone to try further.

Again, (saith he) *They make war to divert, and busie the people*: But, that this is no more then what hath been practised by our own Kings, will easily appear in our Stories (as lame as they are.) And truly, were our Wars at this time the same, (which the Gentleman doth not prove so much as by circumstance, or any thing else, besides his own word) yet they may be justified, to stand with a great deal of reason: For, foreign wars are the sink of a Commonwealth, and are the same to the body politique, that Leeches are to the body natural; who, besides that they carry off a deal of melancholy, black blood; are by experience found to draw off the causes of those vapors, which, if they were let alone, would infest the head. *Edw.* 3. and *Hen.* 5. made the same

use of it: The latter of which, at what time the Nobility had set the Commons against the Bishops; by the perswasion of *Thomas Arundel* Archbishop of *Canterbury* (who had put him in head of his Title to *France*) he diverted those ill humors into an honorable War, which ended in the Conquest of that Kingdom: whereas, if they had been cherished at home, and not vented abroad, they had engaged this Nation in little less then a general combustion. Neither can any sober man say, but that our Wars have had as honorable an *Exit*; wherein, we have let the world know, we have been able, at the same time, to grapple with our Enemies, and defend our Allies. The examples are obvious, and need not so much as naming. And therefore, whereas he instanceth the war with *Spain*, it will easily appear to be a war (however the Scene hath been his own Chamber) meerly defensive, and thrust upon us by that Nation, whose boundless ambition thinks he hath too little elbow-room, till he can write a *Ne plus ultra* upon the one; as he hath done the contrary upon the other of *Hercules* Pillars: And therefore, methinks we should a little disdain, That the Nation of *Spain* (which however of late it hath grown to rule, yet of antient time served many Ages, first under *Carthage*, then under *Rome*, after that under *Sarazens*, *Goths*, and others) should of late years take to themselves that spirit, as to dream of a Monarchy in the West, according to that bold Devise, *Video Solim Orientem in Occidente*; only because they have ravished some Mines, and Gold, from a wild, and unarmed people, who had less Iron then themselves: But I believe, they have met with another kind of people in the *English*, whose first work hitherto hath been to find them out, the next to beat them.

L. Bacon.

Lastly, for that part of his Highness Speech, which the Gentleman is pleased to call *his Comment upon Aristotle*, I have met with the like of *M. Antoninus*, who would not touch the publique monies, without advice of the Senate; *Dion. l. 6.* quoted by *Grotius l. 1. cap 67.*

De jure
belli & pa-
ci.

I might with ease run through the rest of his Character, but as I said before, they do not *competere solo*; and therefore in this place I shall make good, That if there be any little things in this Government of his Highness, that by implication may be drawn within any part of his Character, (for directly there are none) that they are no other, then what either the present condition of the

the State will best bear, or what most wise Princes, and Commonwealths have upon like necessities of State done, and may well justify the doing of. And here, we must not look upon a City, or State that is corrupted, with the same eyes, as we would upon those flourishing ones of old, which we have read of; because the Times men read of, are commonly better then the Times men live in, and the duties better taught, then practised: And to this purpose (saith the Lord Bacon) They contend too far, who would impose the Laws of Antient severity upon dissolute Times: And that our Times have been such, I believe the question may be saved: And therefore as *Solon* said concerning his Citizens, That he had given them the best Laws they were capable of; So we must satisfy our selves with such Administrations as we have for the present, as well knowing, that the sudden throwing off, even of the worst things, is dangerous, and Advises that way are safer heard, then followed: Which error *Cicero* notes in *Cato* the Second, when writing to his friend *Atticus*, he saith, *Cato optime sentis, sed nocet interdum Reipub. Loquitur enim tanquam in Repub. Platonis, non tanquam in face Romuli.* In like manner, we must not argue à *Repub. constitutâ, ad constituendam*, in as much as the former is fixt, and settled, and the latter, trying all ways in order to that end. Some things may be not only justifiable, but laudable as the case may happen, which at other times, are so far from pardon, that they do not deserve excuse. Who would not think that man beyond the power of Hellebor, that should throw his goods overboard in a Calm? and yet, in a storm there is nothing more usual. The case is the same here: There are (saith he) *Taxes, and Armies still on foot*: To answer which, there are Enemies abroad, and Discontents at home: And as it cannot be expected, as long as the cause remains, the effect should be taken away, or that the Accessory should lead, but follow its Principal; so neither can it rationally be thought, that our Taxes should cease, or Armies be disbanded, as long as there are Enemies, or Discontents to be feared; who, though they may seem to sleep for the present, 'tis but as *Pliny* reports of the Lyon, with his eyes open: And therefore a man must not think an Enemy destroyed, as soon as he is beaten, or rooted out, because he is not able to keep the field; but ply him with warm clothes, and if he be not able to come to you, follow him. And so did *Cæsar*, who thinking it not enough to have

have beaten *Pompy* at *Pharsalia*, follows him into *Egypt*, and his sons into *Spain*. to make that Victory secure, which otherwise had been but doubtfull: And the same do all wise Princes (or such as intend to be safe) dealing with those before (as boys do with Adders) never think them destroyed, though cut in pieces, or sufficiently secure of them, as long as they threaten so much as with their tail; lest (what Naturalists report of the one, prove true in the other) that those divided pieces crawl together again, and those brands, but superficially quench'd, break forth into a greater flame: Now how this should be done without men, and monies, I understand not. So then, if we have Armies, and Taxes, they are but some of those natural effects which Wars bring along with them, which being once removed, the other will soon cease of themselves: till when, Preservation is to be preferred before benefit, in as much as those Counsels which tend to the former, seem to be attended with necessity; whereas those deliberations that tend to the latter, seem only accompanied with perswasion: And it is ever gain, and no loss, where at the foot of the account, there remains the purchase of safety.

But because men are best taught by Examples, and a sober inquiry into times past, is the best way to be satisfied with the time present; I shall give some few instances, wherein this Necessity hath been the guide not only of particular mens actions, but even of whole States. 'Twas this made *Cæsar* break the sacred Treasury (notwithstanding the opposition of *Mitellus* the Tribune) to take the monies there stored up, for the service of the War: And *David* to eat the Shew-bread, which was not lawfull to any, but the High-Priests only. 'Tis this hath made the Kings of *France*, and *Spain*, so often raise, and pull down their Coin, according to the fulness, or emptiness of their Coffers: 'Tis this hath made, not only them, but our former Kings to embase our monies: *Frederick* the Second, when he besieged *Millan*, stamp'd Leather for currant; And the *Hollanders* (*Anno 1574.*) make monies of Pastebord. In a word, If a man should ask why *Dido* laid Impositions upon her Subjects, and kept so many Soldiers on foot, *Virgil* will answer for her,

*Res dura, & Regni novitas me talia cogunt
Molliri, & late fines custode tueri.*

And

And another, to the same purpose —

— *Princeps (quia bella minatur*

Hostes) militibus urbes premunit, & armis.

Lastly, there is a Rule in our own Laws, *Quod aliàs licitum non est, Necessitas facit licitum, & inducit privilegium, quod jure privatur.* So to break prison, is felony; but not, if the prison be on fire. So the wilful killing of a man is murder; but for preservation of his own life, a man may kill another that assaults him, or would rob him. I might add more, but I think these sufficient; and therefore conclude, That if not only particular men, but even whole States, have thought Necessity of State a sufficient warrant for the doing of things altogether unlawful in themselves; if our own Laws give a dispensation in like cases, and that to private person too; It were hard measure to deny the same privilege to Princes, to whom, according to *Seneca, Quod Jovi, hoc Regi licet;* and who have the greater reason to be hedged and fenced about with such prerogatives, by how much the more they lie the more open, and exposed to storms. In a word, to be so nice and rigid in this point, were to invert the Fable of *Æsop*, To catch Swallows in Cobwebs, and suffer the little Fly to break through with the Spider: which, if it be not to be imagined, we can no more deny, but that such Actions of his Highness (which the Gentleman is pleased to call Tyranny) being no other then Actions in order to safety and preservation, are so much the more justifiable, by how much the more the general safety is to be preferred before a particular good, and the Common cause before a private interest. And so I leave his first Question to such satisfaction, as you have met with before: And hope that according to my promise I have proved his Highness to be no Tyrant, either in Title, or Government.

The next Question is, *whether if his Highness be a Tyrant, he may lawfully be destroyed?* Wherein, admitting all that the Gentleman hath laid down to be true (as it is not) yet I say, A Subject cannot lay violent hands upon his Prince (although a Tyrant) and be held guiltless: And here I think it will not be expected that I should again prove his Highness to be a lawful Prince, according to the Laws and Constitutions of this Nation, having done it before in the 6, 7, 8, 9 Pages. — And therefore having admitted him to be such, I come to prove the

85 H. 7.
Phar. Com
4 E. 6. 11
26 A. 21

Har. Em.

3 Quest.

the unlawfulness of destroying or killing him, though he either had, or should abuse that power into a Tyranny. And to this purpose having

1. Spoken something to his general matter.
2. I shall examine whether the Authorities, and Examples, which he hath brought to prove this *Killing* Proposition will serve to any purpose; or whether they are not grossly mistaken, if not wilfully detorted? and so disprove them.
3. I shall make it appear, That it is directly against
 1. The custom of the very Heathens, and abhorr'd by them.
 2. That it is against positive rules of Scripture, and examples of holy men therein.
 3. Against the practice of the Primitive Christians.
 4. Against the Laws of Nations.
 5. Against the particular Laws of this Land.
4. I shall give some account of the evil fate that hath attended such persons, as have had their hands in the blood of their Princes, although Tyrants.

I
Answer to
his general
matter.

For the first; It seems he hath not cast all his venom, at least if he have, he licks it up again: For he spends a side or two to the same purpose as he hath done the six former, only with this difference, that he hath wrested an Application in the former, but in this he hath given us none at all: only runs on, as if all were granted, and like Mr. *Hobbs* in his Epistle before his *Leviathan*, would have the people believe, he is a person loves his own humor, and thinks all he saith is Truth. And therefore, because in my former discourse I have sufficiently answered his point of Tyranny, I shall in this place meddle only with his new matter. As first, that of *Grotius* l. 3. c. 8. where he would have him say, *That where all are slaves, it is not, a City but a great Family*: And another out of his 1 lib. c. 8. (as he saith) *Where no Justice can be had, every man may be his own Magistrate, and do Justice for himself*. Concerning which, I will assure any man, that will not take the pains to search the book, that there is no such thing, nor ought that is like it. But however, to say somewhat to both, because they are in his Pamphlet: I shall not deny but the first may be good sense, and true enough, (whether it be *Grotius's*, or the Poet's, as he would have it in another place) but, that this should concern

our

our selves, he must give me some better proofs then his bare saying: *We are members of White-hall*, before I think it worth the answering: And as to his second, I cannot believe that *Grotius* should be guilty of interfering; for I remember a Position of his in another place, directly contrary to what he would have him speak here, and that is, A private man ought by no means to take upon him to judge, but follow the Possession: But if this single Authority be not enough to disprove it, *Bodin* goes yet further, who saith, That a private man ought not to be his own Judge, whether a Magistrate doth him wrong, or not. And so I leave these, and come to his other of *Aristotle*, *Plato*. and *Cicero*, whom we must allow (especially the two first) to speak somewhat freely, because they were generally conversant in Popular States, to which it is inconsistent, that one man be greater then another, for fear he should grasp the Seigniorie: And therefore I think it very material to speak somewhat in this place to the word *Tyrant*: Concerning whose Etymologie, (to say nothing of Dr *Criston's* quibble, who would have it come from *περὶ, casus*, because as Cheese is prest in the Wring, so the People are oppress'd by a Tyrant) I have met with none that comes nearer the primitive use of it, then what *Calpine* gives of it, viz. *ὅστις ἔχει τὸν λαόν, ἡ dominandis populis*, and so amongst the Antients was taken for him that had *plenam in subditis potestatem*, that is, a King: And in this sense it is used by *Virgil*,

Dr. J. B. L. 1. 1. c. 74.

Dr. R. B. L. 1. 1. c. 5.

Th. Tyr. 1. 1.

Roid. 7.

Pars mihi pacis eris dextram ter gisse Tyranni.

Which in English, is no other, then to kiss the Kings hand. And therefore I should be easily drawn to believe, that by *Βασιλεύς* they intended such a person, who by the constitutions of such, or such a place might, and did rule singly as King; and by *Τύραννος* him that in a free, and popular State, used some indirect means (as of necessity he must) to usurp that Grandeur, which was inconsistent to their Laws: And so the Greeks took it; *Græci olim quemlibet in libera civitate dominantem Τύραννον appellabant*, saith *Rider*: And truly it doth not appear to me, that it was the man, but the thing which they generally hated and decried, that is, to be governed by a single person, and therefore they spoke so bitterly against it, to deter others from attempting it: So that all that *Aristotle*, and *Plato* have written concerning it, are not to be taken so strictly, in reference to us: For till such time as there were many Free States, and that particular persons aimed at the sole government

of

of them, the word was used in the best sense, and signified no more of injustice, then the word *Latro*, did antiently a Thief, or that of Knave, for what we now use it. And I suppose *Grotius* might have thought of somewhat like this, when (in his Preface to his Book *De jure Belli & Pacis*) wishing that Principality had not for some Ages, gone into Tyranny; he adds, That Truth to which *Aristotle* was a faithful servant, is oppressed by nothing more, then the name of *Aristotle*; but for his own part (saith) he will imitate the liberty of the Antient Christians, who were sworn to no Philosophers Sect, &c. But to proceed; I had almost forgot that which he cites out of *Tertullian*, *Contra publicos hostes & Majestatis reos omnis homo miles*. Concerning which I shall use the words of *Grotius* upon the same place: where the question being, In what cases an Invader may be expelled by force; he saith, That if an Invader by an unjust war, hath seized on the Government, nor hath there followed any agreement, or faith given him, but his possession is kept by force, in this case (saith he) the right of War seems to remain: But because there is nothing of this in our case, for as I have shewn before, his Highness hath received a sufficient Testimony from the People of their consent, and his first Commission was enough to justify him from being an Invader, I think this needs no further Answer. I have but two things more, and I shall fall to his Examples. The first is the *Valerian* Law, that made it lawful, for any man, to kill him, that took upon him the Magistracie, without the command of the People: To which, I say the same which I did formerly concerning the Laws of the *Hebrews*, that it was a particular Law proper to the Commonwealth of *Rome*, and calculated for that Meridian only. But because this Answer will not satisfy every man, I shall refer him that is scrupled at it, to what I have said before concerning the Consent of the People, then which, this word *Command* signifies (in this place) little more, if not the same: But as if the people of *England* had thought, some such thing might be objected to them hereafter, they did by their frequent applications to him, make it appear, that what in them lay they went about to command him; and so consequently his Highness is not within this Law. But now he talks of the Laws of *Rome*, I can tell him two that would have made fine work with such doctrine: The first was the Law *Horatia*, *Si quis Tribunus Plebis, Aedilibus, Judicibus nocueris, ejus caput feris*

Jovis sacrum esto : where, by *Jovis sacrum caput*, they intended a person excommunicated from the society of men, and such, as having his head vowed to the Gods, might be slain by any man, without being liable to Judgment for it, *quoniam anima diis devota amplius humani commercii non fit* : And in this sense, whoever brake this Law, was called *Homo sacer*. Wherein it is observable, that the Law doth not say, whoever shall kill the Magistrate shall die therefore; but if he shall offer them never so little violence, *q. d. si nocuerit*, if he shall but hurt one of them, &c. The next is the Law made in the Consulship of *C. Julius Caesar*, whereby it was ordained, that such as were condemned of Treason, or raising uprores in the Commonwealth, should be banished. But as I said, they were Roman Laws, and so I leave them. The second is his master-Argument, drawn out of the 2. *Philippick*, wherein *Cicero* doth more then favour the parricide of *Caesar* : But every man that remembers the story will be ready to say, So brave an Orator, might have been eloquent at a cheaper rate, then the loss of his head, (for so much indeed it cost him) no great sign of approbation : And when he shall consider how suddenly the people revenged his death, damm'd up the Court wherein he was slain, *Curiam in qua occisus est obrui placuit*, (saith *Suetonius*) *Idemque Martius Parricidium nominari, ac ne unquam eo die Senatus ageretur*, and withall bestowed upon him the honor of an *Apotheosis*, or enrollment amongst the Gods; the question will be soon out of doors, whether he were a Tyrant, or whether the people approved his murder : Besides, we must allow *Cicero* to speak like an Orator, especially against *Caesar*, whose name (saith *Florus*) was so cryed up for eloquence and spirit, being thought to have been his equal therein, at least his second; and upon this score there was great emulation between them, witness that book of his entituled *Anti-Cato*, wherein he did aspire to the victory of Wit, as victory of War, undertaking therein a conflict with the greatest Champion of the Pen, *Cicero* the Orator. I might add that other of his *De Analogia*, which was nothing but a Grammatical Philosophy, wherein he did labour, to make *vox ad placitum*, to become *vox ad licitum*, and to reduce custom of speech, to congruity of speech; and as also divers others which you may read in *Suetonius* and others. But *Cicero* himself hath not spoken so ill of him in this place, as he hath wellof him in another,

D

when

R. m. 24
171

Cic. Phil. 1

Phil. in Cic.

Sueton. in
vita Caf. 1

Phil. in
Cesare.

L. Bacon's
Adv. 1. 1. c. 3

when pleading for *Marcellus*, and desiring *Caesar* to call to minde how much he had deserved of *Rome*, although he was unfortunate in lighting upon the wrong side, he saith thus, *Memento Cajus, memento: Diis immortales! quid dixerim. &c.* Remember, O *Cajus*, remember: O ye immortal Gods! why do I bid *Caesar* remember, who never forgot any thing but injuries? And so I pass this, with that censure which *Juvenal* gives of him for writing this second Philippick: *O fortunatam, &c.*

Estius 10.

Antoni gladios possis contemnere, si sit

Omnia dixisset; Ridenda poemata malo.

Quam te conspicua divina Philippica f-me. &c.

In a word, both this famous Orator, and our Gentleman, if they had not forgot *Esop.* might have learn'd to be wiser, as remembering, the Wolf had his skin pluck'd over his ears, for but putting his head within the Lyons den.

^{2.}
A disproof
of his Ex-
amples.

In the next place I come to consider his Examples, which (with submission) I conceive to be nothing to his purpose, though he hath dealt with them as *Procrustes* did with his gueits, some he stretches, others he cuts shorter, if by any means they may be brought to fit his model. The first is that of *Mutius Scaevola's* attempt against *Porfena*; which, that it is nothing to the purpose, will appear by his own words (*Hestis, hostem occidere volui*) Being an Enemy, I would have slain an Enemy: And being so (as all who know the story must confess it) he could not attempt his life as being a Tyrant, but an open Enemy; and consequently, was but an act of single valor, as the words themselves necessarily imply; and no other, then what *Elcazer* in the *Maccabees*. did upon an Elephant larger then the rest, supposing the King had been upon him; Or the two Roman Soldiers, that ventured to cut the cords of *Balissa*, at the battel of *Cremona*. And to this purpose, *Grotius* makes this excellent difference, between murtherers who violate their faith, either expres, or tacite; as Subjects toward a King, Soldiers toward their General, &c. and between those that are not bound with any faith, who being open Enemies, by the Laws of Nature, and Nations, may kill one another every where: And such was *Porfena*, to *Scaevola*. v. *Flor.* 18 c. 1c.

2 Mac 6. 46

Tac. Hist.
13. c. 6.
De jure
belli, &c.
42. c. 32.

Exo. 2. 12.

The next is that of *Moses's* killing the *Egyptian*; concerning which, he saith every English man hath as much a call as *Moses* had,
to

so *slay*, &c. And truly I am of his opinion; for to me it appears, that neither had any: For if we consider the Text, we shall find that *Moses* had so little warrant to justify his act, (that we read) *he hid him in the sand*; and the people were so far from allowing, or approving it; that the first time he hears of it, 'tis by way of exprobration, *Wilt thou slay me as thou didst the Egyptian*? So that the act was altogether unwarrantable, and no more to be drawn into president, then the spoiling the *Egyptians*, to justify Plunder.

The next is that of *Sampson*, and the *Philistines*: In which whole story, though we shall find in two places, that the *Philistines* had dominion over them, I conceive it cannot be understood otherwise, then of their prevailing over them; For, that *Israel* had given them any faith, or so much as promise of subjection, doth not appear, but rather the contrary, for themselves give *Sampson* Jud. 16. the appellation of Enemy; *Sampson our enemy*, &c. And this might be the reason, why, although they had overrun the *Israelites*, they suffered no Smiths to live amongst them, because having received no faith from them, they were afraid of those excursions, which throughout the story we shall find some or other of the *Israelites* ever and anon making. And from hence I think I may safely say, the *Philistines* and *Sampson* were open Enemies, and consequently all acts of killing, and spoiling, were lawful between them. But this example will receive a stronger answer, which is a particular promise that God made to *Manoah* (the mother of *Sampson*) that Jud. 13. *He would give her a son, who should begin to deliver Israel out of the hands of the Philistines*. And to this purpose we shall find, that the Spirit of God moved him, v. 25. of the same Chap. So v. 19. of the next Chap. *The spirit of the Lord came upon him* So Ch. 15. v. 14. — *came mightily upon him*, &c. and divers other places of the like nature. And so I think this Answer sufficient, 1. That they were open Enemies. 2. If they had not been so, there was an immediate inspiration from God to that purpose, and consequently not the act of a private man, as the Gentleman would have it.

The next is that of *Samuels doing Justice upon the Tyrant Agag*, (for so he is pleased to call it.) To which I answer, That besides that I said last before, that they were open Enemies, here was a particular command of God in the case. And therefore I shall take the

story in pieces, and see, what Analogy there is between it, and the present purpose. — When the children of *Israel* murmured at the waters of *Massah* and *Meribah*, *Amaleck* came out and fought against them, whereby to obstruct their passage into the promised Land; And this we may read more fully in *Samuel*, where God saith, *I remember what Amaleck did to Israel, how he laid wait for him in the way &c.* And therefore God commanded *Saul*, to destroy him utterly; that as he had been *the first of Nations*, (*q. d.* who had warred against *Israel*) so to fulfill the prophetic of *Balaam*, his latter end should be, *that he perish for ever.* Now *Saul* having destroyed the *Amalekites*, and contrary to the express commandment of God, reserved *Agag* alive; *Samuel*, as well to fulfill that command, as to compleat the decree of God delivered (as before) by *Balaam*, hews him in pieces, &c. And other sense cannot rationally be drawn out of this place; for *Agag* had never any thing in the Nation of the *Israelites* whereon to ground a Tyranny, and consequently could not be slain as a Tyrant, as the Gentleman would have it: And so I think this Example quoted to as little purpose, as the three former.

The next is that of *Jehoiada's* slaying *Athaliah* To which (besides what *Grotius* saith of it, that it was done as Protector to the young King *Joash*) I give this Answer; That when *Athaliah* saw her son *Ahaziah* was slain by *John*, she destroyed all the seed Royal of the house of *Judab* (*Joash* only excepted:) which, that it was done with an intent to ingross the Scepter to herself, and her own line, will easily appear out of the same Text, *Behold, the Kings son shall reign, as the Lord hath said of the sons of David:* And what that was, we may read *2 Sam. 17. 16.* where *Nathan* speaking by message from God to *David*, he saith, *Thy house and thy kingdom shall be established for ever, &c.* both which *Athaliah* attempted to destroy, and therefore justly slain. But, saith our Author, *He had no authority for doing it, either from God, or the Sanhedrim.* To which I answer, That if he had no authority, the less is it to be drawn into president; for though a man in many actions may do *justum*, yet if he have no warrant for it, 'tis but *injustum*. But what wrong will it be to the Text, to suppose God did particularly reveal himself in this thing to the High Priest, when we find that he discovered the birth of *John* the Baptist to an inferior Priest, of the eighth course; and that our Saviour should die for the

the people, to *Caiphas*; for saith the Text, *He spake it not of himself, but bring High Priest that year, he prophesied &c.* Besides, upon a consultation with *Urim* and *Thummim*, though the King, or Father of the Consistory might propose the matter, yet the Priest only had the power to resolve: And therefore why may it not (without intrenchment upon the Text) be supposed, that God had discovered himself concerning this thing, unto *Jehoiada*? But supposing he had not, *Jehoiada* was High Priest, and had no small influence upon the people; and therefore knowing the revealed will of God, which he had said concerning *David*, (*Thy house and thy kingdom shall be established for ever, &c.*) it was authority enough for him, to do what he did; and consequently, was not the act of a private man. Then, for the authority of the *Sanhedrim*, which our Author saith was wanting also, it doth not appear to me out of Scripture, or ought else (and I believe it will be impossible for him to prove) that they had any power themselves over their Kings; and consequently, if they had given any to *Jehoiada*, they must have given what they had not, which could not be: Nay (though they were not put down till *Herod*) yet they had a power superior to them, even at their first institution: For *Moses* was none of them, but chief over them; and therefore after his death, they chose one, whom they called the Prince of the Seventy: which possibly might be intended by that Text, where speaking of *Moses* it is said, that *he was King in Jeshurun* (*q.d.* among the righteous.) But to make this more clear, it is said that *Samuel* judged *Israel*, and went from year to year Circuit to *Beithel*, *Gilgal* &c. Which could not have been done, if he had not had a superintendencie over them. From whence I conclude, that they had no power over the Crown themselves, and consequently *Jehoiada* could not expect to receive any from them.

There remains only one, and that is of *Ehud's* slaying *Eglon*; which at first sight, and as our Author hath delivered it, may seem a little to the purpose: But he gives us the Text, without the Context; for if we read eight or nine verses backward, we shall find that the children of *Israel* had done evil in the sight of the Lord, and that therefore the Lord strengthened *Eglon* King of *Moab* against them. — And afterwards, when they cried unto the Lord, *He raised them up a deliverer, Ehud, &c.* See! The Text names God in both places; 1. As the Author of their punishment,

God

God strengthened Eglon, &c. 2. As the Author of their delivery, *God raised Ehud &c.* — And therefore till he can shew me as good an Authority to prove his doctrine, pardon me if I say, neither this also will make for his purpose: For if it should, it would serve as well to warrant the Assassination and murdering of all Kings, good or bad, when ever the people shall be discontented with them: And if themselves may be Judges, and they that are to give the sentence, make the case, Good God! how would the World be pestered with Tyrants? how many good Princes would be daily suppressed, by those, by whom they ought to be supported? There should not be a Prince milde, and religious, but he should be deemed a Fool, and consequently unfit to rule; whereas if he take care that his Laws (especially such as are penal) be duly executed, or put any man to death for traiterous attempts against his person, we should have the Traitors proclaimed Martyrs, and the Prince exclaimed against as cruel; A very *Nero* made up of dirt and blood: He shall not be favorable to tender consciences, but he shall be decried for Toleration: On the other side, he shall not urge uniformity, and decency, but he shall be railed at for superstition: In a word, because there is no Virtue so equilibrious, but hath some flexure to one of the extremes; we should have the extreme publish'd, and the vertue silenc'd: whereby in short time it would come to this pass, that he shall not do any thing against the good liking of the people, but it shall be accounted Tyranny, of which (as I said before) if themselves may be Judges, and withall have such examples as these imposed upon them, that it is lawful to kill, and destroy such persons, we should have it so frequently acted, that the Cynick might once more put a candle in his lanthorn, and sooner find what he look'd for, then any (besides a mad man) that could be drawn to rule. And therefore to close this point, we must know, there are many things in holy Writ, which are in no case to be drawn into precedent, being not altogether so warrantable in themselves, but as Divines say, set down rather for our caution, then example: For, if it were otherwise, we cannot but justifie *Romulus* his taking away the daughters of the *Sabines*, for the *Benjamites* did the same to the daughters of *Shiloh*, upon the same occasion: Nor can we condemn the same *Romulus*, for killing his elder brother *Remus*, when we shall be told that *Solemon* used

Jud. 21. 23

used the same policie, towards his elder brother *Adoniah*. But as *Ex. 1*
I said before, they are things rather of caution, then example; and
therefore

——— *Satis est tetigisse; Revertar.*

The next thing I meet with, is an Answer of some Objections. The first of which is, *That these Examples, are of men inspired by God, and therefore they had a call, and authority for their actions, which we cannot pretend to.* To which he frames this Answer.

1. *If God commanded these things, 'tis a sign they are lawful.*

2. *That none of the persons themselves alledged any other cause for what they did then the justice of the actions themselves, and though they were but the acts of private persons, yet they are justifiable by that common call which all men have, to do all actions of justice that are in their power when the ordinary course of justice fails.* To which I Answer, that because God commanded these things immediately to them, it is no sufficient warrant for us to do the same. God commanded *Abraham* to sacrifice his Son *Isaac*, and yet it is not warrant enough, for any *Enthusiast* to do the same, upon pretence of a like revelation. So God commanded the Prophet to take to him a wife of Whoredoms, &c. which he did (*for a sign to the people &c.*) yet I conceive it no excuse, to justify any mans error, for falling into that ditch, only because the Prophet was commanded into it. I might add divers more, but I think this taste sufficient: 2. As to the second, because he brings no new matter to prove it, but the same Examples which I have handled before, I shall refer you back to them; onely adding this, that *Jeſu* though he were a Captain of the Host, yet he made no insurrection against *Ahab*, untill he had a positive command from God, and anointed King to that purpose. Hof. 1. 2. 2 Kings 9. 7

The next Objection that he makes is, *That the not opposing the Government, but submitting to his Highness Laws, is a tacit consent, &c.* To which he gives this Answer, *That it cannot be presumed, but the same hath been done in all usurpations whatever.* To which I answer, we must make a difference, between an implicate, and tacite consent, of which kind is this the Gentleman speaks of in this place: and an actual consent, of which I have spoken formerly, page 8. And therefore as to the first, it cannot be expected, but that the people will follow their business whoever sit at Helm,

as being not able to live without it, and if they can live without being oppress'd, 'tis as much as they care for, let him take the Government, that will, or can : but as to the second when the people, besides the doing those common things (before) shall according to the custom of their Country, (the office of the chief Magistracy being vacant and empty) set up any man, whom by a general consent, they shall declare their Ruler, and invest him with those ensigns of Majesty, peculiar onely to such an Office, and Person; (all which and more the People of *England* have given his Highness) I say in such a case, the consent is actual, and the people have bound themselves up, to yeeld him subjection, and defence. And therefore as to his examples of *Caligula*, *Nero*, and the *Israelites* under *Eglon*, the two former were never so much as thought to be Tyrants in Title : For, besides that both of them were of the blood of *Julius Caesar*, and adopted *Cæsars*, they were after the death of the Emperors their predecessors, declared the same themselves, by the Senate and the Army; but for that of the *Israelites* under *Eglon*, it was no other, then a constrained subjection, to one that had over-run them, and therefore could not but be expected from a conquered people, with whose interest it stood, to be quiet at any rate : But that the *Israelites* gave any faith, or actual consent to *Eglon*, there is not the least light that way, throughout the whole story; and so his own examples do not agree amongst themselves. Lastly, to close this second point, I cannot but observe, how often the Gentleman hath given *Machiavel*, the nick-names of his *Highness* *Apostle*, *Evangelist* and *Practitioner of Piety*; where it will more probably appear, that he hath made him his own *Vade mecum*, and is better read in him then in the Bible : for if his quotations of the one, had bin no better to his purpose then the other, I might have safely transcribed them to my margent, and they would have served as much to prove, my Part of the question, as they have done his. And so I come to the third Point I propos'd to my self, wherein I shall prove the unlawfulness of the Act; as being a thing abhorred, even of Heathens. 2. Against the positive Rules of Scripture, and examples therein. 3. The example of primitive Christians. 4. The Laws of Nations. 5. The Lawes of this Land.

For the first, If there were no more in it then the very dishonourableness and treachery of the action (as to spill the blood
of

*Vid. Suet.
in Calig. &
Nero:*

The un-
lawful-
ness, &c.

of War, in Peace, by poison or a knife) yet the Heathens themselves have been so far from acting it, that they have refused it, when offered; And the Reporters of such actions, have seldom named them without some Stigma, or brand of infamy. Examples in this kind we have divers. *Medicum venale Regis Phrygiæ caput afferentem, Curium remisit, &c.* (saith *Florus*) When the Romans made war against King *Pyrrhus*, his Physitian made an offer to *Curium*, to poison him, for a sum of money, but (so detestable were such acts of treachery, and cowardice, to a Roman spirit, that) he sent him away: So when a Prince of the *Catti* would have undertaken the death of *Arminius*, *Tiberius* rejected him; equalling himself in that glory with the old Generals, saith *Tacitus*: So *Galba* when the Army had proclaimed *Otto*, and he in a great confusion went to appease the tumult, he was met by a Souldier, who brandishing a bloody sword, cried aloud, he had slain *Otto*; yet all the reward or thanks he received for it (though spoken no doubt out of a good design to quiet the people) was, a composed look, and these words, *Commisiste, quis iussit?* My Friend (quoth he) who bad thee? It was this which *Alexander* threw by way of infamy to *Darius*: Ye undertake (saith he) impious Wars, and though ye have Arms, ye bid money for the heads of your enemies. And the same is that censure, which *Livy* gives of *Perses* the last King of the *Macedons*, *Quem non iustum bellum gerere, Regio animo &c.* A person (saith he) whom we found to carry on the War, not honourably, and like a King, but privily, and like a Robber, with all the abhorred villanies of Butcherings, and poysonings. Neither hath the same *Florus*, whom I quoted before, less sting, when writing the transactions of *Spain*, and how *Virlathus* had well nigh over-run it, and assailed the Romans for fourteen years together, with fire, and sword, till at last being distressed by *Fabius Maximus*. *Servilius Capio* his Successor, to make the quicker dispatch of the War, procured him to be murdered; by which means (saith he) *Violata victoria est &c.* The victory was stained: Neither is that brand, which *Valerius Maximus* throws upon the same story, ought inferior; He deserved not the Victory but bought it. So in their Wars in *Asia*, against *Aristonicus*, *Marcus Aquilius* having poisoned the Well-heads of certain Cities, whereby to compel them to yeeld, he saith thus of it, *Quæ res, ut matrem, ita infamem fecit victoriam: quippe*

Ph. l. 1. 18.

Tac. Ann. 3.

Tac. Hist. l. 1. c. 7.

2. Curium l. 4.

T. Livius l. 42.

Ph. l. 1. c. 17.

Val. Max. l. 9. c. 7. c. 3.

Ph. l. 1. 20. c. 20.

contra fas Deum &c. This fact, as it ripened the victory, so it made it famous, for against the Laws of the Gods, and custom of Ancestors, it blemisheth the lustre of the Roman Arms, preserved till then religiously pure. To come nearer home, the Mahometans make it a part of their Religion, to propagate their Sect by the sword; but yet still by honorable Wars, never by villanies and secret murders: Nay upon this ground the Saracen Prince, of whom the name of *Assassins* is derived, having made use of such villanies for the murdering of divers Princes in the East (by one of whom *Amirah* the first was slain, and *Edward* the first of *England*, wounded;) was put down, by the common consent of the Mahometan Princes. But what shall we say if the very Heathens have not onely abominated such actions, but advised submission and obedience to Princes though never so bad? *Ferenda Regum ingenia*, saith *Tacitus*, We must bear with the disposition of Princes. And again, We must pray that we have good Emperors, but endure the bad. And again, *Quomodo sterilitatem & cetera natura male, ita luxum, & avaritiam dominantium &c.* We must bear (saith he) with the luxury and avarice of Princes as we do with barren years, and those other evils of nature which we cannot help: There will be vices as long as men, but they will not last always, and are recompensed with the convenience of better things; and to this purpose excellent is that of *Claudian*,

Agat. 12.

Id. H. 1.4.

Id. H. 1.4.

————— *Quamvis crudelibus, aequè*
Pareatur dominis —————

And therefore to close this, if the very Heathens have abominated those barbarous acts, of destroying their enemies, by treachery, and murder, and on the other side have advised submission, and obedience to Princes, although bad; how shall they rise in judgment against those Christians, that not onely hold it lawful to destroy their enemies, by such base ways, but even their rightful Prince whom they are bound to defend? In a word, what excuse can they make to themselves, who knowing the judgment of God (that they which commit such things are worthy of death) not only do the same, but take pleasure in them that do them?

2. It is against the positive Rules of Scripture, and examples therein; and here I argue thus. Whatever we are commanded to pray for, or perform any duty to, we are (*a multo fortiori*) forbidden to destroy:

destroy: but, we are commanded to pray for Kings, (nay even the worst of Kings) and to perform divers acts of duty towards them: and therefore (*à multo fortiori*) we are forbidden to destroy them. *Machiavel* tells us that when life, liberty, and safety, come in question, there ought to be no consideration had of just, or unjust; pittyful, or cruel; honorable, or dishonorable; But the Scripture teacheth us another Lesson; Captives, to pray for the peace of them that held them in captivity, but bids them nowhere, to lay violent hands upon them, though they got thereby, so dear, and precious a thing as liberty: And this precept doth *Jeremiah* give, to them of the captivity, that they should pray for, the peace of *Babylon*, where they were then captives: And the same did *Baruch* (which though it be Apocrypha, was never denied to be of good moral use) write to the Jews, that they should pray for the life of *Nebuchadonosor*, and for the life of *Balsasar* his Son, *that their days might be upon Earth as the days of Heaven*: And adds in the next verse, *that they might live under his shadow, and the shadow of his Son*. An example of this we have of the Jews in holy Writ, who were wont to pray for the life of the Kings that held them in captivity, and for the life of their Sons: And another pertinent to this purpose, out of *Josephus*; that when *Pertinax* came to set up *Caligula's* image in the Temple, they who would die rather than that should be done, being asked whether they would wage War with the Emperor, answered no, but on the other side, offered sacrifice twice a day for his safety: And that we may see they did no more under the Law, then what was warranted by the Gospel, let us peruse that of *St. Paul* to *Timothy*, where he waves the Authority of an Apostle, and he that might have commanded, exhorts; *I exhort therefore, &c.* Nay, and as if this might not be thought perswasive enough, he descends yet a little lower, and makes himself less then the least of the Apostles; he entreats (for the word *πειθομαι*, will bear that sense also,) and having by a Rhetorical exaggeration heaped four words one on the neck of another, signifying the same thing, onely to add the more vehemency to the exhortation, that their prayers should be as general as their charity, extend to all persons, to all men; he begins with Kings in the next verse, and stops not here but goes on (*ἡ πᾶντων τῶν ἐν αὐτοῖς ὀντων*) and all that are in authority; and sure if there had not been a necessity of the duty, he would not have

On. Lin.
627.

Jer. 29.

Baruch
I. II.

Exra 6. 10.

Tim. 2.
1. 2.

have prest it at such a time, when he that fate at the stern, he that was ~~in the city~~, was no other then that monster of Mankind, *Claudius Nero*: and yet for him would the Apostle have prayers be made, and not onely *Prayers*, but *Thanksgivings*.

Exo. 22. 28 Secondly, We are commanded not to speak evill of them: *Diu non detrahes & Principi populi tui non maledices. Thou shalt not revile the Gods, nor speak evill of the Prince of thy people*: And what the Text intends by that appellation of Gods, we may read, *Psal 82. c.* where speaking of Governors, God saith, *I have said ye are Gods, &c.* And in the same sense it is used by *Plato*, *In Polit.* *ὁ βασιλεύς, ὡς Θεός ἐστι ἀνθρώπων*, The King is as a God amongst men. As also by the Poet

Ovid. Met. *Cæsar in urbe sua Deus est*: ———

The practice of this we have in the Apostle *St. Paul*, who when the High Priest had commanded him to be smitten, though he could not contain a little passion (the natural effect of honesty and innocence) yet as soon as he understands him to be the High Priest, see, **Act. 23. 5**, how suddenly he checks himself, *I wist not Brethren that he was the High Priest, for it is written thou shalt not speak evil of the Ruler of thy people*. Nay, *Solomon* goes further, and sets not only a **Ecclef. 10. 20**, bridle upon lips, but a curb upon our thoughts, *Curse not the King, no not in thy thought, &c.*

Rom. 13: Thirdly, We are commanded to be subject to them, *not only for wrath, but conscience sake*; and the reason of this we have both in the first verse, *For there is no power but of God*; as also in the fourth verse, *For he is the Minister of God to thee, for good*.

And here, before I go farther, it will be requisite to remove some stumbling blocks, which lie in my way: and dispel a couple of Scotch mists, which notwithstanding, I beleve every man, that is not thick-sighted, will be able to look through of himself. The first of which is this, That the Apostle speaketh here, *De ipsa Magistratuum potestate, non de malè, male potestatem gerentibus*. So *Buchanan*.

Sol. To which I answer, That it is plain he speaks of both; of the Magistrate then in being, as well as of Magistrates in general, whose authority he acknowledgeth, and appealeth to his judgment-seat; and as I have shewn but a little before, enjoyed prayers, even for *Nero*: but if there were any doubt, **1 Pet. 2. 13**, *St. Peter* makes it clear, who bids us, *submit our selves to every Ordinance of man*.

man, for the Lords sake: And the reason of this he layeth down, v. 15. For so (saith he) is the will of God, that with well-doing we may put to silence the ignorance of foolish men. In which place, though he calls it a humane Ordinance; it is, *Nam quod humanum est invenit a fuerit, sed quod propria hominum est, digesta, et ordinata respondet x. xio.* So Calvin.

But you must consider the times wherein the Apostle wrote this: It was the infancie of the Church, when Christians were for the most part poor and weak, and not able to resist. So Buchanan again (in dainty juggle.)

Obj. 2.

But contrary to this we must know, that all Morals in Scripture are catholique in respect of persons and times; and what was unlawful then, is unlawful now; it was unlawful to be a Drunkard then, the same now, & sic de ceteris.

S. 1.

Lastly, The world hath not wanted others, who have declared, That Christ, and his Apostles were subject to Princes and Magistrates, *de facto*, but not *de jure*. So Bellarmine.

Obj. 3.

Which, how probable it is, will easily appear in this, 1. That the words are general (*omnes & xpi*) every soul; and therefore include not this, or that, but every man, every estate, and condition. 2. The word (*υποτασσεισθε*) be subject, is a Verb passive, and implies, that this subjection may be forced, where men do not give it willingly: For as Princes have power, so they have right to exercise that power, nay they do so naturally depend one upon another, that they are inconsistent asunder. To instance but in one thing; and that is the honor and respects we give to Princes and Magistrates, which, though it be a duty we owe them, yet lies in the giver, not in the receiver: And therefore, I should think that Prince did much deserve it, who had no more to shew for it, then the courtesie of the people; who, like Carriers' horses, though they know their road well enough, yet very often expect to be remembred of it, with the spur. Excellent to this purpose is that of no mean Statist, who observed, That all the Prophets who were armed, prevailed; but those that were otherwise, were too weak, wanting a sword to back their doctrine; and therefore (saith he) it behoves a Prince to be so provided, that when the people will believe no longer, he be able to compell them. We may say the same of obedience, &c.

Sol.

Rom. 13. 1.

Lastly, we are commanded to pay them Tribute and Customs: Rom. 13. 2.

Render.

Render therefore, &c. Tribute to whom tribute, Custom to whom custom is due, &c. And this the Apostle calls (*ισμὸς*) debts; to shew, That it is not a thing of our own choice, whether we will do it, or not; but an act that is incumbent upon us, and favours nothing of courtesie, but of duty. To add but one example for all; behold a greater then *S. Paul*, our Saviour himself, nor only commands it to be done, *Give unto Caesar. &c.* but that he might not seem to enjoin more to others, then what he had first done himself, *Mat. 23. 23* he gives us his own example, *Mat. 17.* where though he knew himself exempted from Tribute, yet lest he might seem to offend, he bids *Peter* cast his hook into the sea, and take up the first fish that cometh up, and when thou hast opened his mouth (saith our Saviour) thou shalt find a piece of money; *Take that and give unto them for me, and for thee.* From all which I conclude thus; That if we are environed with such a cloud of witnesses, that tell us there is a duty we owe to Princes; if we have the examples of *Jeremiah*, and *S. Paul*, who enjoined prayers for them; of the ancient *Jews*, that made them; of the Apostle, that checkt himself for but speaking irreverently to the High Priest; of *S. Peter*, that commands us to be subject to them; of the same *S. Paul*, that enjoined Tribute to be paid them; and lastly, of our Lord and Master, who not only commanded it, but did it himself, and that not to a good King, but to *Tiberius*, (one that came short of *Nero* in nothing; but that he lived before him, and drew that Original, which the other did but Copy after him:) Certainly by the stronger reason we are forbidden to rebel against them, to lay violent hands upon them, or to destroy them. But because Examples (as the Schools say) teach as well as Rules, and I think no man so impudent as to deny, but obedience is due to good Kings; I shall in this place give some examples of such bad Kings as we meet with in Scripture, and yet the holy men therein have been so far from not giving them obedience, that they have thought their persons sacred and inviolable. *Pharaoh* was a cruel oppressor of the children of Israel, as who, not only toiled them with making of bricks, but to add to their slavery, denied them a part of the materials (to wit) straw, and yet expected his full tale; besides which, he commanded their midwives to destroy all the males, as soon as born; abused *Moses* and *Aaron* that came to mediate for them, and blasphemed that God that sent them: yet the people make neither open attempts against

*Sutton.
in Tiber.*

against him by Rebellion, as they might well have done, being more, and mightier then the *Egyptians*; nor private against his person, by Assassination, though *Moses* that had the freedom of access, might have done it by a dagger; or that lived in his Court, might have compassed it by poison; or that wrought so many miracles, destroyed him by another. No, they only cry unto the Lord, and he returns them this answer, *I will be glorified upon Pharaoh, &c.* but says not, Ye shall be glorified, &c. thereby intending, that be the Prince never so great an oppressor, the people ought to submit to him, and leave their cause to God, who in his time will right them, and deliver them, as he did the Israelites from *Pharaoh*. But to proceed, *Saul* was a wicked King, and had his Kingdom rent from him for his disobedience, and yet *Samuel* gave him his accustomed veneration and attendance. So *David*, notwithstanding the Kingdom was transferred from *Saul* to him, yet he spared his life twice, when it was in his power to have slain him; and as the Text saith, his heart smote him for but cutting off the skirt of his garment: And after, caused the *Amalekite* to be slain, who upon request, and pitty, had lent his hand (as he said) to help forward that voluntary death, which he had designed to himself, that he might not fall into the hands of the *Philistines*. So *Nebuchadnezzar* King of *Assyria*, who was so violent a persecutor of the Jews, as having wasted all *Palestine*, taken *Jerusalem*, slain the King, burnt the Temple, led the people captive into *Chaldea*, where he erected his golden Image, &c. yet *Ezekiel* with bitter terms, abhorreth the disloyalty of *Zedechiab*, because he revolted from this *Nebuchadnezzar*, whose Homager and Tributary he was. From all which rules and examples it is manifest, that there is a duty owing even to the worst of Princes; and if we are forbidden the less, we are forbidden the greater; if we must not offend them with the tongue, we must not offend with the hand. In a word, be the Prince what he will, we ought to obey him, if for nothing else, yet because it is the command of God: Only this distinction may be added, That look what honor we give to evil Princes, we do it not to man, but to God himself, in reverence to his ordinance: And this was excellently exprest, by that Emblem of the *Egyptians*, viz. An *Asis* carrying the Image of the Goddess *Isis*, and the people falling down to worship it; the Inscription of which was, *Non tibi, sed Religioni*.

Thirdly,

*In Apol. g.
cap. 30.*

*Grav. de ju-
re belli, &c.
lib. 2. c. 7. 16*

Thirdly, It is against the Example of the Primitive Christians, who it is likely understood the Apostles meaning, as well as any else, yet in all those Persecutions, which attended the infancy of the Church, had recourse to no other weapons, then tears, and prayers, I, and that too for their Emperors, although Persecutors. *Ora- mus* (saith *Tertullian*) *pro omnibus imperatoribus, pro ministris eorum & potestatibus.* We pray (saith he) for all Emperors, for their Servants, and powers: And what it was they prayed for, he tells us in another place; *Vitam illis prolixam, Imperium securum, &c.* That God would give them a long life, a secure Empire, a safe House, valiant Armies, a faithful Council, an honest People, a quiet World, and whatever else are the desires of a man, or an Emperor. Imprudent no doubt, if not impudent were the same *Tertullian*, if before the Emperors, who could not be ignorant of the truth, he had so confidently dared to tell a lye: If we were willing (saith he) to use open hostility, should we want numbers, and forces? We have filled your Cities, Islands, Castles, Towns, Camps, Palace, Senate, all your places, but your Temples; and if our forces were unequal to yours, we might easily make War upon you, when we are so willing to be slain, if our Religion did as well allow us to kill, as be killed. Famous to this purpose is the example of the *Theban* Legion, which consisted of 6666 Souldiers, all Christians; (a reasonable Army) yet when *Maximianus Caesar* commanded them to sacrifice to false Gods, rather then do it, they suffered themselves to be decimated, and every tenth man slain without the least resistance: In which, the speech of *Exuperius* the Ensign-bearer, is worthy of our remembrance, O Emperor (saith he) desperation which is most valorous in dangers, hath not armed us against thee: Behold, we have weapons in our hands, yet do we not resist, because we had rather die, then overcome; and perish Innocents, then live Rebels. The sense of which made *Dionysius Alexandrinus* complain of *Gallus* the Emperor, *Quod sanctos viros, pro Regni sui pace supplices, persecutus sit*: In a word, he that desires to be farther satisfied, in the obedience, and submission of the Primitive Christians, to *Nero*, *Domitian*, *Trajan*, *Adrian*, *Severus*, *Maximinus*, *Decius*, *Valerian*, *Aurelian*, and *Diocletian*, under those Ten Persecutions, let him but read *Dr. Hakewels Sententium Regum*, lib. 2. and there he may reap a plentiful satisfaction.

Fourthly,

Fourthly, It is against the very Laws of Nations; the Civil Law saith, *Conjuraciones omnium proditiomm odiosissima, & perniciosissima*. Conspiracies, are of all Treasons, the most hateful, and most dangerous; And therefore, they that have written concerning Ambassadors, say, That if an Ambassador, or a man that cometh in upon the highest safe conduct, do practise matter of sedition in a State, yet he is to be remanded: But, if he conspire against the life of the Prince by violence, or poison, he is to be justified. *Quia odium est omni privilegio majus*. Because the detestableness of the action, is beyond all privilege. (But the Laws of England go further, and say, the very raising of a rebellion, is enough to make him lose his privilege; and so it was held in the Bishop of *Ross* case, *Hil. 13. Eliz.*) By the same Laws of Nations, a Souldier, who hath resisted his Captain, willing to chastise him, if he hath laid hold on his rod, is cashiered: if he purposely brake it, or laid violent hands upon his Captain, dies; And from hence, any man may make the Argument, That if it be unlawful for a Souldier, but to resist his Captain; how much more unlawful is it for him to lay violent hands upon his Prince, to whom, not onely himself, but his Captain owe the duty of subjection, and defence? And to this purpose is the same *Grotius* very positive in another place, where, though he saith it is lawful, by the Laws of Nature, and Nations, to kill ones enemy every where; yet speaking concerning attempts against the persons of Princes, by murder, or otherwise; he calls it perfidiousness; and saith, That though Custom may overpower Laws, nevertheless that Custom, hath staid beneath the right of killing: And concludes, that it is a violation of the Law, not of Nature onely, but of Nations. But to proceed: Although I cannot properly call the constitutions of the Church of *Rome*, the Laws of Nations, in regard they are of force no where, but where the faith of *Rome* is retained: yet considering how great an influence it hath in Christendom (and probably more then ordinary upon our Author) I shall, to avoid multiplicity of heads instance in one or two of them in this place: I say then, that the Church of *Rome*, that hath been so often branded by us Protestants (if I may use so new a name, for so antient a faith) as fautors of the Doctrine of Regicide, yet all agree that though he be a Tyrant in Regiment, he cannot be resisted or killed without a sentence precedent. Nay, *Ogleby* the Jesuite goes further, who being arraigned in the time of K. *James* (in *Scotland*) and asked the

*F. Cook
Instit. 4. c.
26.*

*Grande juris
Oc. l. 1.
c. 62.*

Id. l. 2. c. 20

Saur.

question whether an Heretick King being excommunicated, might be slain, though to save his life he would not say it was unlawful, yet he confest the Doctors of their Church were divided about it, and had not determined it; wherein, it is probable he spake a greater truth, then he intended; for if we shall look back upon the ancient Bishops, and Popes of *Rome* (before they had gotten the knack of moderating in the quarrels of Princes, and by a handsomt twisting the Gospel, and the interest of the Chair together, found a way to cheat both, and to justifie that, brought up the devise of depriving such as would not stand to their sentence, and interdicting their Kingdoms) we shall find, that they were so far from thinking it lawful to oppose, or murder their Emperors, be they what they would, that they enjoyned prayers for them; particular, for *Julian*, and *Anastatius*; the one an Apostate, the other an Heretick, and divers others; nay, *Gelasius*, Bishop of *Rome*, in an Epistle of his to the latter, styles him, *Clementissimum, gloriosissimum, Augustum, & Dei in terris Vicarium*; and beseecheth God, *ut regnum ejus, & salutem perpetuam protectione custodiat*. But to proceed; By the Constitutions of the same Church, if a Confessor divulge any thing that is committed to him upon auricular confession, he shall be burnt: yet if it be matter of Treason, or conspiracy against the life of the Prince, he is bound to reveal it, and such discovery shall be evidence enough to arraign any man upon it; which if he shall confess, he shall suffer as a Traitor; so odious is even the very thought of conspiracy: An example of this we have in *Bodin*. There was saith he a Gentleman of *Normandy* confest himself to a Franciscan, of having had a purpose, to have killed *Francis* the First, of *France*, of which having repented, he received absolution: After which, the Frier having revealed it to the King, the Gentleman was sent for, who upon confession of the fact, was turned over to the Parliament of *Paris*, where he had sentence of death for it, and was executed accordingly. And the like we finde in holy Writ, where *Bagathan*, and *Tharex*, were both hanged, onely for seeking to lay hands on King *Abasuerus*.

Lastly, It is against the very Laws of this Nation: For as I have said, the Law that respects a King *de facto*, and not *de jure*, gives him the same preheminencies, as if he were a King *de jure*; nay, presumes him to be so, because he is in possession: For otherwise, the Laws would be very weak in this point, to think him a fit person.

*De Hakem.
Sens. Reg.
l. 3. c. 8.*

*De Repub.
l. 3. c. 5.*

Ed. 2. 21.

son to protect others, that were not able to defend himself; and consequently give him no other advantage by that place of eminence, then to make him the fairer mark for every Traynor to level at. We shall therefore examine what the Law in this case hath always been: Before the Conquest it was such; *Qui capiti, aut saluti Regis, personę seu felici, seu serviti, aut securis mercede conductus, stipatus infidelitatem, viā & fortunas omnibus privatur.* Whosoever, either by himself, or by his Servants, or cut-throats hired to that purpose, shall traitorously attempt the life or safety of the King, let him be deprived of his life and all his estate. Nay the now Law saith, that if a man be killed in open Rebellion, without judgment, yet he may be attainted by Parliament; and so was *Thomas Holland* Earl of Kent, and shall suffer such forfeitures of estate, as is by such Act specified, or if the Chief Justice of the Upper Bench (who is the cheif Coroner of *England*) shall upon his own view, of a body slain in open rebellion, make a record thereof, and return it into the said Bench, he that is so slain shall forfeit his Lands, and Goods. And so it was resolved in the time of *Hen. 7.* by *Fyenes* Chief Justice. Wherein we may note, that if rebellions (which have this of commendation in them, that they are prosecuted by men, and resolution, and not by the barbarous, low waies of Assassination, or poisoning) are so severely punished; how great a stock of impudence must that man have, that dare defend such acts of treachery, and baseness, and not think them worthy of a more severe inquiry, in as much as there is no fence against them, being of the nature of thunder-claps, the blow struck before 'tis thought of, and the work done before we hear the report: But to avoid ravelling into too much Law, I shall instance onely in one more, and that is the 25. E. 3. which is for the most part declaratory of the ancient Law, and saith, that if a man doth compass, or imagine the death of the King, &c. and be thereof provably attainted, by open Act, it is Treason. Now the question upon this Statute will be double. 1. whether his Highness be within the perview of that Statute, because it speaketh onely of a King. 2. admitting he be, whether the declaring and publishing that it is lawful to make him away, and the inciting the people to do the same, be a sufficient overt act within this Statute? To both which I answer affirmatively; and therefore for the first, however the Statute speaks of *nostre Sür le Roy* (besides what I have said concerning

cerning this before, I shall add, that it is not to be taken strictly and literally, as if it intended nothing else, but that individual word *King*; for then neither Queen *Mary*, nor Queen *Elizabeth* could have been within it, but must have had some other Act (as King *Philip* had) to have made the compassing their deaths to be Treason: but, by equity, to extend to any other chief Magistrate, that shall be entrusted with the management and execution of that office: And so, the compassing the death of him that is Protector, during the minority of a King, is Treason within this Statute. And the same of a Queen Regent, as I said before. But if any man shall object, that the Statute is penal, and therefore ought not to be taken by equity: I answer, That where it is more beneficial, then prejudicial to the greater number of people, and may well stand with the Rules of Law, it shall be taken by Equity. And so the 1 *Rich. 2. c. 12.* which gives an Action against the Warden of the *Fleet*, for Escapes, hath been extended by Equity to all other Goalers. So a latter clause of the same Statute, 25 *E. 3. c. 2.* that declares it to be Petty Treason for a Servant to kill his Master, hath been construed to be the same, in that Servant who shall kill the wife of his Master. I might add divers others, which being too many to set down, I refer my Reader to further satisfaction in the margin. Now what greater benefit can come to a Nation, then that He be safe, in whose preservation the common safety of all is concerned? What greater interest then that, that Head should be defended, whose broken sleeps, give us security in our own? and which if it happen to be disturbed, the whole body is out of order. Excellent to this purpose is that of *Virgil*, concerning his Commonwealth of Bees:

Inf. 4. 7.
Id. Inf. 2.
P. 395
Plow 361.
Dyer 281.
Inf. 3. pt. 30
5 Rep. 77
31 Rep. 34

— *Rege incolami, mens omnibus una est;*

Amisso, rupere fidem, &c. —

In a word, A Prince is the same to a State, which the *Primum mobile* is to Nature; If it be never so little out of order, all the lesser Orbs must stand still, and consequently fall to their first nothing. 2. The next question will be, whether a Declaration by publique writing, That it is lawful to make his Highness away, and an inciting the people thereto, be a sufficient overt Act within this Statute. To which I answer, as formerly, that it is. For though it hath been said, that words may make an Heretick, but not a Traitor, yet I take the case to be otherwise here: For here are
more

more then general words (which are often either forgotten, or mistaken, and concerning which the Witnesses seldom agree in their evidence) there being a positive determination of the point, that it is lawfull, and an actual invitation of any man to venture upon it, as an act of honor and merit: And so hath it been held formerly: when Cardinal *Pool*, in his Book of the Supremacie of the Pope, had incited *Charles* the Emperor, then preparing war against the *Turk*, to bend his force against his natural Lord *Her.* 8. 1. That the writing of that Book was a sufficient overt act within this Statute: Nay, the Lord *Bacon* goeth a little further, who saith, That whoever shall affirm *in diem*, or *sub conditione*, that the King may be destroyed, is a Traitor *de presenti*: And to this purpose he urgeth the Duke of *Buckingham's* case; That if the King caused him to be arrested of Treason, he would stab him: And that of *Elizabeth Barton* (whom the people called, The holy Maid of *Kent*) who said, That if *Hen.* 8. took not again *Katherine Dowager*, he should be no longer King. For (saith he) though the act be future, and contingent, yet the Treason of compassing, and imagining is present, and contrary to that Allegiance, which (as he saith elsewhere) must be independent, and not provisional and conditional. And therefore much more stronger should we give the severest judgment upon this, by how much the more it surmounteth all others, as being hardest to be avoided: For other Treasons meet with many impediments; for if it be such as may be attempted by one, it often happens, that he fails in opportunity, and resolution, and sometimes that he is touched with remorse: And if there be more then one in it, it is ten to one but it comes to light: For the persons that engage in such designs, are generally Discontents; and as soon as a Conspiracie is revealed to such a one, he hath at the same time a means given him to work his own content, by revealing his Accomplices; for, seeing certain gain on the one side, and only doubt, and danger on the other, he had need be a rare Friend, or an implacable Enemy that can conceal it: But for a man to publish and maintain, that it may be lawful for a Subject to attempt the life of his Prince, is a venomous sop which enters into the hearts of all those that are any way prepared, or predisposed to be Traitors: For if one man faint, another may dare; if one man hath not the opportunity, another may have; if one man relent, another may be desperate,

and

148. 2. 14

27 H. 8.

In his letter to King James, and in his Charge against *Talbot* in *Cam.* *Seck.*

and if four or five cannot keep council now, it may light upon a Knot of more inveterate Male-contents, that may do it hereafter. In a word, all other Treasons have their Critical minutes, beyond which they are nothing; but this doctrine may outlive the Author, and infect some one an hundred years hence, though it may fail for the present: And therefore not unjustly punished so severely by our Laws, as thinking him a person fit for nothing, but the severest punishment they can inflict, who by so barbarous an act, as murdering the Prince, doth what in him lies, not only to subvert them, but the Commonwealth with them.

⁴
The evil
fate that
hath at-
tended
such per-
sons, &c.

In the last place, I come to give a few instances of the evil fate that hath attended such persons as have had their hand in the blood of Princes. How many have there been, who having raised the people, and perswaded them to lay violent hands upon their Prince, upon the score of Tyranny, though they may have kept them within bounds for a time, yet (like young Conjurors) have been torne in pieces by their own Spirits, for want of other work:

*Sce. in Caf.
ad finem.
Plu. in Caf.
Idem in
Brut.
Elin. l. 4. c. 6*

An Example of this we have in the Conspirators against *Cæsar*, who were all generally slain by that People, whose liberty they had so much pretended: Others again to save them a labor, (smitten at last with the shame, and conscience of the fact) slew themselves with the same Dag which they had provided for *Cæsar*: And though *Brutus* (that Parricide) miss a death from both; yet the indignation of the People shall deny him *Rome*, and the evil Genius of *Cæsar* not forsake him till *Philippi*. And no better success had

*Procop. de
Bello Vand.
lib. 2.*

*Plutar. in
Dion.*

Maximus, who having slain *Valentinian* the younger, Emperor in the East; though he had cause enough to stamp a noble title upon the Action, and have married his Revenge to Justice, in as much as *Valentinian* had debauch'd his wife, and that too under the disguise of a kindness to the husband: yet he was torne in pieces (*membratim*, saith mine Author) limb by limb, by the people. In like manner *Callippus*, having by corrupting the Soldiery slain *Dion*, in hopes of the Government of *Syracusa*, was himself slain with the same dagger, by the same Soldiers. And *Cicero*, of whom I spake before, though (for as much as ever I could meet with) he was hardly privy to the conspiracie against *Cæsar*, and therefore at most could be but accessory after the fact; yet had that hand that wrote, and that head that spoke in defence of his murder, strook off, and set over the *Rostra* where he had formerly

*Idem in
Cicerone.*

justified

justified so dangerous an Error. Neither is holy Writ barren of examples in this kind. The servants of *Amon* conspired against him ^{2 King. 21,} and slew him, and all the people of the land slew all them that conspired against him. In like manner *Zimri* conspired against ^{1 King. 16,} *Elah* King of *Israel*, and slew him, and having reigned seven days in his stead in *Tirzah*, the people encamped against it and took it: But *Zimri* burnt the Kings house, and himself in it, to escape a greater mischief for the Treason he had wrought, for so the Text calls it. And rather then I shall want any thing that may prove the present purpose the Gentleman himself will afford me somewhat; for as to his example of *Athaliah*, it will be no hard matter to turn the point of it upon himself, in as much as the Text tells us, *she had* ^{2 King. 11;} *slain all the seed Royal of the house of Judah*; and consequently it can be no injury to that place, if (besides what I have said before concerning it) I add this, that it was a judgment of God, and an act of retaliation of the people upon her, for those many murders and slaughters which she had exercised upon the posterity of the Kings of *Judah*. For as *Ovid* saith, — *Neque enim lex inferior illa,*

Quam necis artifices arte punire sua.

Neither have the People been the only Executioners of Justice; in these cases; but even particular Princes have thought it a duty to them, and interest to themselves, to revenge the death of their Predecessors. So *Alexander* the Great, put them to cruel death, that had slain *Darius*, his Enemy: *Cesar*, such as had a hand in the blood of *Pompey*: *Vitellius*, the Murderers of *Galba*: *Domitian*. *Epaphroditus* the Libertine of *Nero*, because he had but helped him (although in love) to dispatch himself: And *Severus*, the Killers of *Pertinax* his Predecessor. The same did *David* to the *Amalekites* (as before:) And when *Rechab* and *Baanah* brought him the head of *Ishbosheth*, he commanded his young men, and they slew them, and hung up their hands and feet, over the Pool in *Hebron*. So barbarous and abhorred an act hath this of Killing been, even in the eyes of the People; and a thing of so ill president to Princes themselves, to suffer such people to live, that though they may have secretly approved the Action, as gaining a Crown by it, yet they have rarely forgot to give the Actor the demerit of his Treason. But if after all this men will not take warning, but suffer themselves to be run into dangers, by every Botesu and Incendiary, that thinks he cannot warm his hands,

Pho. in Alex.

Idem in Pompeio.

Suet. in Vell. f. 10.

Idem in Domit. f. 14.

Herodian.

2 Sam. 14,

22.

v. Phereb; in Eusebio.

hands, unless it be at a publique flame, I cannot tell what I should add more; for whom neither Religion nor danger can keep back, what can deter? Yet because some men are sooner led by interest then either of the other two, I hasten to his Third Question, which is,

3. *Quest.* *Whether this act of killing, &c. is like to prove more advantageous, or noxious to the Commonwealth?*

Concerning which, having in Answer to his First Question made it appear that his Highness is not a Tyrant either in Title, or Regiment; and in Answer to his Second, proved the unlawfulness of the Action; methinks I might well spare the labor of examining whether it be expedient to make him away? But because all his Propositions are grounded upon Suppositions, nay even this also he begins, *If it be lawful, whether it be expedient*; having disproved the former, there remains nothing, but that I consider the latter: And here, I need not ask the wearied Traveller, whether he would be at rest; or the weather-beaten Sea-man, what is the benefit of a Harbor? The case is the Commonwealth: How hath she been tossed to and fro upon the waves of Civil dissensions? how have her sons (like *Rebecca's Twins*) struggled together within her, to the endangering their common mother? What breaches hath she received from the fury of the one, and the madness of t' other? And now that this leaky Bottom hath made land, nay more, that that the waters are abated, and herself rested upon the mountains of Peace and Settlement; That her sons begin to acknowledge each other, and have beaten their swords into plow-shares, and their spears into pruning-hooks; what folly were it, nay what inexcusable madness, to engage her in new broils, and set those scars a bleeding again, which while they were wounds, were always thought (and so found, too great for any but the hand of God to close. And now because our Authors doctrine tends to little less, I would have every English-man examine our own Story, and tell me whether this Nation had not better have endured that too masculine spirit of King *J. hn* then by that large effusion of blood in the Barons wars, subjected it last to the interloping of the Pope? Or whether they had not better plaid under that more then feminine easiness of *Rich. 2.* then by a continued war between the two Houses of *York* and *Lancaster*, sheathed that sword in one anothers bowels, which, had

had it been in no other hands, then of those that were slain, had been Army enough to have stretcht out its boughs unto the Ocean, and its branches unto the Rivers, and in a word, given Law to all *Europe* besides. But before I proceed farther in this point, 'tis requisite that I look back upon my Author. And here, the first thing considerable that I meet with, is that of the Lord *Bacon*, viz. *The blessing of Issachar, and that of Judah falls not upon one people, to be Asses crouching under burthens, and to have the spirit of Lyons.* Wherein the Gentleman is wise to conceal the Book, because he hath made a little too bold with his sense, which were easie enough to be understood, if he did not explain himself, that he intended no other Taxes, then such as are laid upon the people against their consents, and for which there is no Authority, but the will of the Imposor; and therefore he calls them properly burdens: But speaking of such as are conferred by consent, he instanceth in the Excises of the *Low-Countries*, and Subsidies of *England*; which, though they are the same as to the purse, as those that are levied by command, yet (saith he) they work diversly upon the courage: And so concludes, that a people overlaid, and overcharged &c. are unfit for Empire, which must necessarily pull down the courage of the most warlike people, when they shall have nothing, be it never so dear to them, which they can call their own, but may be taken away whenever their Prince shall have a mind to it. And that our condition is not the same, will easily appear to any man that shall consider, that there is no Tax now on foot in the Nation, other then such as is confirmed by Authority of Parliament; and though possibly they may be greater then hath been usual, yet they are no other, then what the People, by their Representatives, have laid upon themselves; and such, that though they may be a little troublesom for the present, will in the end produce Peace, and Plenty. The next thing, which he doth but touch upon, is that of Oaths, &c. *How many Oaths have we broken, &c.* To which (though I never took any myself) yet I may safely give this Answer: That although Oaths are always (at least ought to be) taken in the sense of the Giver, and not of the Receiver, yet an Oath may cease of it self, two ways. 1. Where he to whom, or for whose good the Oath was given, refuseth it. 2. Where the quality doth cease, under which a man hath sworne to any; as if a Magistrate cease to be a Magistrate: Now if any man hath taken an Oath, which he conceiveth to be broken, if he cannot bring it

*Bac. Adv.
vincement,
L. 8. c. 3.*

*Grot de jur.
C. 1. L. 2.
c. 42.*

under one of these heads, my advice to him is that he ask God for giveness for what is past, and be more wary of such solemn engagements for the time to come. And so, because our Author makes no more of it himself, I have no reason to follow it further. The next thing he enquires is, *What have we of the Nobility, but the name, the Luxury, and the Vices?* Which I believe our Author set purposely down, because he would be sure to have somewhat in his Pamphlet that could not be disproved: And therefore I shall say no more to it, then what we have in an old Poet of our own, who calculates the time, since when they first fell in their esteem,

*Ex quo Nobilitas servilia cepit amare,
Nobilitas cepit cum servis degenerare:*

Adv. 300. Onely wish that they may disprove that Antithesis of the Lord Bacon, Nobility seldom springs from Vertue, Vertue more seldom from Nobility; And so I leave it. In the next place, he saith *An unlimited power is not to be trusted in the hands of one Man, &c.* Which though I shall not oppose it, yet I would fain know wherein this unlimited power concerns his Highness, or if so, wherein it consists: for, he hath not hitherto pretended to more then the Laws give him, and therefore we should be as charitable, as those Laws, who never presume a wrong, unless it be sufficiently proved: And so I cannot tell what it should be he drives at, except he thinks an unlimited power to consist in a negative voice, without which, let a Princes Dominions be never so great, he is but like the Roman *Priapus*, who though he were God of the Gardens, could not keep a Crow from muting upon his head: Or that picture which the Dutch devised for one of our own Kings, a sword by his side, but locked in with a pad-lock. But if this be not the thing, but he is angry that the Power is put again into the hands of one, *Tacitus* will tell us, it was the onely way that settled *Rome*. *Neque aliud discordantis Reipub. remedium fuisse, quam ut ab uno regeretur:* There could be no other cure found for the divisions of the Commonwealth; then that the whole power should be put into the hands of one: And nothing impertinent to this purpose is that of *Agamemnon* in *Homer*

*Οὐκ ἀγαθὸν πολυκλειστήν, εἰς κοίαν ᾧ ἑστῶ,
Εἰς βασιλεὺς —*

*Where many rule, no good can spring;
Let be one Sovereign Lord, one King.*

In the next place, he pretends to answer two Objections, in the first whereof, he would take off from the unlawfulness of the action of killing his Highness *privately* (as he calls it) which is in plain English basely and treacherously. Concerning which, because I have largely spoken to it in answer to his second Question, I shall only add what old *Gualfridus* saith of *Rich. 1.* slain by an Arcubalist

——— *Trajecit, tellus, apertum ;*
Providus, incautum : miles munitus, inermis ;
Et proprium Regem ———

The second (which he would seem to answer but doth not) is the fear of what may succeed, if his Highness were removed, which being little different from the question, I shall briefly run it over, and having given some instances how fatal the change of States hath generally been, I shall wind up the whole.

First then he saith, *We suffer a certain misery for fear of a contingent one, and let the disease kill us, because there is danger in the cure.* To which I answer, that if himself were judge, would not he think that Physitian mad, that should advise him to cut off his head, because it akes? Or those Marriners out of their wits, that because they are onely afraid of a storm, shall run their Vessel upon a Rock, out of the pretence of making the more haste to shore? The case of *England* is the same: We have been long sick, and our disease was well nigh grown to a habit, and now that we are gotten again upon our legs, and able to walk by the help of a staff; what desperate confidence were it, to throw away that supporter, onely because our old Nurse tells us we are able to go by our selves? How much better were it that we rested till we had recovered some more strength, then upon the vain and idle surmises of an uncertain cure, expose our selves to a certain relapse? for little better can be looked for, from those desperate conclusions, which like the applying hot bricks to the soles of the feet, though it may by accident divert the disease, yet experience tells us, doth but settle the humor, in some other place, which in a short time becomes a more incurable Gangrene. And therefore I pittie him that shall think these prescriptions fit to be followed, and may safely conclude he is unhappily sick, as being more endangered by his Physitian, then his disease.

But who are they to whom he applies this discourse? or what are the men that must be the executioners of this villany? he thinks

the Souldiery the fittest persons, and therefore he would engage them, and if there be any discontents amongst them, boil up those ill humors into a mutiny, if not a rebellion. But I hope they see through his design, and beleve, that though he pretends himself to have been one of them, 'tis but a design to kill two Birds with one stone: for if they should venture upon such an action, and fail in it, they ruine themselves, and he hath his end that way: and if they go through with it, he is sure they will fall together by the ears amongst themselves; or if that fail, contract an odium from the people, and blot out the memory of their former deserts by the murder of their General, to whom, besides the duty they owe him as their Prince, they have added (*Sacramentum militare*) the faith of a Souldier; and so he hath his end this way also: But I hope they both know this, and have also learnt, that if it were Gods Cause, as the Gentleman would make it little less, yet it must not be fought with the Devils weapons.

Non tali Auxilio, non defensoribus istis

Christus eget —

In a word, there is a maxime in Morality, That *bonum oritur ex integro*, and in Christianity, That we must not do evil that good may come of it.

In the next place he strikes upon a string that he thinks will make the best musick; and yet, but once, least it might be thought to be done of design. *Utinam te potius Carole retinuissemus, quam hunc habuissimus, &c.* To which I give this short answer, that there are two Acts of Parliament in the case, the one in disowning his Title, the other in setting the Government upon his Highness by the name of the *Lord Protector of the Commonwealth of England, Scotland and Ireland &c.* And therefore it behoves no man to be wiser then the Laws of his Country, nay rather, so far to submit to them, that he follow the great wheel of the State, referring nothing to his own brain, which must needs be excentrick and irregular. An example of this we have in *Th. Howard* Earl of *Surrey*, and eldest Son to the Duke of *Norfolk*, who being taken prisoner at *Bosworth-field*, and being demanded by *Hen. 7.* why he would bear Arms for a Tyrant, he answered, He was my King, and if the Parliamentary Authority shall set the Crown upon a stock, I will fight to defend that stock, &c.

Lastly, he concludes with the business of *Sindercomb*, and though in the beginning of his Pamphlet, he is one of those of whom *Domitian*

mitian complains, that will never beleve there is a Treason unless the Prince be killed, and therefore inquires *whether it were a Plot of Sindercomb, against his Highness, or of his Highness against Sindercomb*: yet here his study hath got him a stomach, he swallows it bones and all; he sings him an Epinicion (if I may give that name to prose:) and would do more for him then the Pope did for the *Jacobine*, or *Raviliac* (the Assassins of *Hen. 3.* and *Hen. 4.* of *France*) canonize a Traitor for a Saint. But the Rat is discovered by his squeaking, *We extoll* (saith he) *their constancy whom neither bribes nor terrors could make betray their friends*; yet tis more then probable that some of them began to suspect it, or else they had never provided him a pill, to secure him against telling of tales. But I hope every man will take example by him, and beleve there is another way to preserve a mans memory then by firing *Diana's Temple*, and that there is as short a cut to Heaven out of a Bed, as from a Gibbet; for, be the Treason what it will, we shall rarely find, that Traytors have gone to their graves in peace; and therefore, I may not improperly use that of *Juvenal*, though wrote by him in another sense

*Ad genus Cereris sine cadant sanguine pauci
Descendunt. &c. —*

Sat. 10.

for, either they receive their reward where they have attempted the action, or met with it from them, that set them on work, most men being of *Antigonus's* mind, who would say, he loved the Treason, but hated the Traytor: And here, if it be requisite to urge any thing further, to confirm a truth so generally received, amongst those multitudes of examples, take this one for all, out of *Florus*: Where *Tarpeia* having betrayed the Capitol to the *Sabins*, upon contract, to receive for reward, what they carried on their left hands (intending no doubt their Bracelets;) they both to keep their promise, and withal not to suffer such an exemplary Treason to escape unpunished, threw her in their Bucklers to boot, where-with being overwhelmed, she received the reward of her treachery. And so I leave it, and come to speak to the disadvantages that the alterations of Government have brought along with them.

Machiavel, whom the Gentleman hath quoted so often (as thinking the very name scandal enough to the people) calls that of *Tacitus* a golden sentence, where he saith, that men are to reverence things past, and to submit to what is present: and should wish for good Princes, but whatsoever they are endure them: and verely who

Phil. in
Rom.
Ll. in em-
menc.

Lib. 1. c. 2.

Upon Ex-
7, 43. a. 6.

who doth otherwise ruins both himself and Country. The Prints of this are every where, but I shall insist onely upon the Roman State. When *Lepidus* went about to rescinde the Acts of *Sylla*, *Florus* saith thus of it, That it was deservedly designed, if it could have been done without the greater damage of the Commonwealth: And a

Flor. l. 3. c. 2.

little further, *Expediebat ergo, quasi agra, faucibus Reipub. requiescere quomodocunque, ut vulnera curatione ipsa rescinderentur.* It

Annal. l. 2.

was expedient (saith he) for the sick, and wounded Commonwealth to take some rest at any hand, least the soars should be opened and bleed in the cure. And this is that which *Tacitus* drives at, when he bids us bear with the dispositions of Kings; for saith he, *Neg; usus crebras esse mutationes*, it is not for the profit of the Commonwealth that there should be often changes: For as *Caesar* said, Kingdoms never change without great combustions, and States suffer worse mischiefs, by not enduring even insolent Princes. The Commonwealth of *Rome* found it true enough after his death: Examine but the Triumvirate, and you shall find every one set up for himself:

Id. Flor. l. 4. c. 5.

Lepidus covetous of wealth, the hope of which stood upon troubling the State: *Anthony* to be revenged on them that had proclaimed him Traytor: And *Oct. Caesar* for the death of his adoptive Father, upon *Brutus* and *Cassius*: Then again came up the proscriptions of *Sylla*, the free sword did what it pleased, and was more familiar with entrails, then the Aruspices: In a word, it mowed down no less then 140 Senators, nothing but rapine, and slaughter bestrid the streets, till *Oct. Caesar* by out-witting one, and beating the other, once more settled the Empire: But then again, when they had gotten the knack of murdering their Emperors, four of which successively were slain, viz. *Nero*, *Galba*, *Otho*, *Vitellius*; the second, and last by the Army; the first, and third by themselves, to prevent worse usage. He that shall peruse the four Books of *Tacitus* his History, shall find it nothing inferior to that Character, which he gives of it in the beginning; *Opus, plenum magnis casibus, atrox praeliis, discors seditionibus, ipsa etiam pace saevum*; A Work (saith he) containing sundry changes, bloody Battels, violent Mutinies, Peace full of cruelty, and peril: Four Emperors slain with the sword; Civil Wars, three; foreign, more, and oft both, &c. Histories are full of examples to this purpose, and would rather require a volume then a few sheets, but I shall onely apply this last, and conclude.

Tac. Hist. l. 1. c. 2.

When *Alexander*, the Great had a purpose to build a City to his glory

glory, *Democrates* the Architect came to him, and shewed him how it might be built upon Mount *Athos*; which place, besides that it would be strong, he could so order, that the City should be made in form of a Man, which would be a wonder worthy his greatness; whereupon being asked how the Inhabitants should live, he answered, he had not advised of that point yet: And truly to me it seems that the Gentlemans brain, was big with some such *Chimera*, or else it could never have come into his head, to have advised the destroying one Government, before he had thought upon some other frame, to set up in the room of it: For supposing the Gentleman had his wish, and that his Highness were carried away in some popular combustion, or by a private hand, which would work the same effect, (which God forbid:) it could not but rationally be expected, that we should onely then begin to know what it were to suffer; for of all Tyrannies, the fury and madness of the people is the greatest: Then, when too late, we should have every man complain, that if he were chastised before with rods, he is now lashed with Scorpions, and experimentally find, that the little finger of the people, would be thicker then his Highness's loyns: Excellent to this purpose, is the Philosophers story of the *Ass*, who being laden with Salt, and passing through a River, casually stumbled in it, and perceiving that by that accident the salt melted, and his burden became lighter, he could never after come by any water, but he would be lying down in it; till his Master perceiving it, laded him with Wooll, and then, when too late; the poor *Ass* began to repent himself of his trying Conclusions: Besides, there is a great advantage we receive, both by not changing our Governors, and by not suffering the Government, when vacant, to run into too many Families; the contrary of which, hath been the great impoverishing of elective Kingdoms: And this I shall deliver in the same Fable that *Aesop* did to the *Samians* upon the like occasion. There was a Fox, saith he, swimming over a River, but the stream being too strong for him, he was beaten into a bush, where he was horribly infested with Flies: it happened the Hedge-hog came by, and pitying his condition, proffered him his service to beat them off: to whom the Fox; No Brother, let them alone, for their bellies being full, they are quiet, and do not trouble me, but if you shall beat off these, I shall have others come in their room, who will take all that blood which these have left: The Moral is good, and prevails so with the *Samians* that

*Bedius de
Regul.*

that they continued their Governor; and weighed so much with *Tiberius*, that he seldom removed his Deputies of Provinces, there being (as *Josephus* relates) only two (viz. *Craus* and *Pilate*, in *Judaea* for twenty years together. For as *Latinus* saith, *Non parvis populis Regnum breve* — For not knowing how long, or little they may continue, it cannot be expected, but that they will make hay, whilst the sun shines. And as to the second, of the inconvenience of letting the Government run into too many Families, I need go no further for instance then the Empire of *Germany*, which by this means hath had such Cantons lopt from it by the sons of Emperors, as *Bavaria*, *Saxony*, the *Palatinate*, and others, that (whatever it is now) it had ere this time crumbled into dirt, had not *Charles* the Fifth thought upon that policie of *Rex Romanorum*, whereby, it hath been not only kept to this day, in the *Austrian* Family, but divers of those Territories are again brought into the Antient channel, from whence, to the great endangering of the Empire, they had been formerly purloined.

Lastly, to wind up all, I have but a word, and that is to the Discontent, upon whom this kind of doctrine hath the same effect, as poison upon cholerick constitutions; it enters easiest, and works fastest: And therefore 'tis probable they were the persons principally intended by this Pamphlet; and the rather, in as much as they look upon his Highness as a person come in by Conquest; and therefore say, That all power won by the sword, may be lost by the sword. To which I answer, That admitting that, which his Highness never owned, or pretended to, yet even upon that score it stands most with their interests, to be quiet, and submit to the Government: And therefore I will give you the opinion of *Seneca*, upon the very same case:

Her. Em.

*Si aeterna semper odia mortales agant,
Nec captus unquam cedat ex animis furor;
Arma felix teneat, Infelix parat.*

And having in the following Verses reckoned up the miseries and inconveniences of a War, he adds,

*Pacem reduci velle, victori expedit;
Victo necesse est.* —

And so having brought my discourse down to particular interests, I think I cannot break off in a better place.

F I N I S.

2 HOUR

DA 422 1657 .S39

Killing is murder:

Stanford University Libraries



3 6105 041 371 373

STANFORD UNIVERSITY LIBRARIES
CECIL H. GREEN LIBRARY
STANFORD, CALIFORNIA 94305-6004
(415) 723-1493

All books may be recalled after 7 days

DATE DUE

JAN 18 2000

JAN 8 2000

